

# **WEST VIRGINIA LEGISLATURE**

## **2022 REGULAR SESSION**

### **Committee Substitute**

**for**

### **House Bill 4353**

By DELEGATES SMITH, SUMMERS, MALLOW, ELLINGTON,  
STEELE, HARDY, PHILLIPS, SYPOLT, HOWELL, FAST, AND  
MARTIN

[Introduced January 24, 2022; referred to the  
Committee on Political Subdivisions then the  
Judiciary]



1 A BILL to amend and reenact §3-1-30 and §3-1-31 of the Code of West Virginia, 1931, as  
2 amended; to amend and reenact §3-2-19 of said code; to amend and reenact §3-11-1 of  
3 said code; to amend and reenact §7-1-1a of said code; to amend and reenact §7-4-1 of  
4 said code; to amend and reenact §7-14B-21 of said code; to amend and reenact §7-17-  
5 12 of said code; to amend and reenact §7-20-7 and §7-20-12 of said code; to amend and  
6 reenact §8-1-2 of said code; to amend and reenact §8-2-5 of said code; to amend and  
7 reenact §8-3-6 of said code; to amend and reenact §8-4-7, §8-4-8, and §8-4-10 of said  
8 code; to amend and reenact §8-5-5 of said code; to amend and reenact §8A-7-7, §8A-7-  
9 8a, and §8A-7-13 of said code; to amend and reenact §11-8-16, and §11-8-17 of said  
10 code; to amend and reenact §13-1-7, and §13-1-11 of said code; to amend and reenact  
11 §15-2-13 of said code; to amend and reenact §16-12-1 of said code; to amend and reenact  
12 §18-9-1, §18-9-2, and §18-9-2a of said code; to amend and reenact §20-5K-3 of said  
13 code; to amend and reenact §22-15A-18 of said code; to amend and reenact §22C-4A-2,  
14 and §22C-4A-3 of said code; to amend and reenact §22C-6-3 of said code; to amend and  
15 reenact §29-22C-7 of said code; to amend and reenact §29-25-7 of said code; to amend  
16 and reenact §47-20-26 of said code; to amend and reenact §47-21-24 of said code; and  
17 to amend and reenact §60-5-1, §60-5-3, and §60-5-4 of said code, all relating to bringing  
18 uniformity to local elections by ensuring that all counties hold local elections on a date that  
19 a statewide election is already taking place, on a primary or general election date; requiring  
20 that local elections and any elections to increase levies coincide with a primary or a  
21 general election; removing references to special elections for levies; providing a saving  
22 clause for the renewal of existing levies by providing for levying bodies and boards of  
23 education to vote in order to schedule such elections to renew or extend these levies in a  
24 manner which brings them into conformity with the new structure; and authorizing poll  
25 clerks to work and be compensated for both full and half days worked during an election.

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

## CHAPTER 3. ELECTIONS.

### ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

#### **§3-1-30. Nomination and appointment of election officials and alternates; notice of appointment; appointment to fill vacancies in election boards.**

1           (a) For any primary, general or special election held throughout a county, poll clerks and  
2 election commissioners may be nominated as follows:

3           (1) The county executive committee for each of the two major political parties may, by a  
4 majority vote of the committee at a duly called meeting, nominate one qualified person for each  
5 team of poll clerks and one qualified person for each team of election commissioners to be  
6 appointed for the election;

7           (2) The appointing body shall select one qualified person as the additional election  
8 commissioner for each board of election officials;

9           (3) Each county executive committee shall also nominate qualified persons as alternates  
10 for at least 10 percent of the poll clerks and election commissioners to be appointed in the county  
11 and is authorized to nominate as many qualified persons as alternates as there are precincts in  
12 the county to be called upon to serve in the event any of the persons originally appointed fail to  
13 accept appointment or fail to appear for the required training or for the preparation or execution  
14 of their duties;

15           (4) When an executive committee nominates qualified persons as poll clerks, election  
16 commissioners or alternates, the committee, or its chair or secretary on its behalf, shall file in  
17 writing with the appointing body, no later than the 70th day before the election, a list of those  
18 persons nominated and the positions for which they are designated.

19           (b) For any municipal primary, general or special election, the poll clerks and election  
20 commissioners may be nominated as follows:

21 (1) In municipalities which have municipal executive committees for the two major political  
22 parties in the municipality, each committee may nominate election officials in the manner provided  
23 for the nomination of election officials by county executive committees in subsection (a) of this  
24 section;

25 (2) In municipalities which do not have executive committees, the governing body shall  
26 provide by ordinance for a method of nominating election officials or shall nominate as many  
27 eligible persons as are required, giving due consideration to any recommendations made by  
28 voters of the municipality or by candidates on the ballot.

29 (c) The governing body responsible for appointing election officials is:

30 (1) The county commission for any primary, general or special election ordered by the  
31 county commission and any joint county and municipal election;

32 ~~(2) The board of education for any special election ordered by the board of education~~  
33 ~~conducted apart from any other election;~~

34 ~~(3) The municipal governing body for any primary, general or special municipal election~~  
35 ~~ordered by the governing body.~~

36 (d) The qualifications for persons nominated to serve as election officials may be  
37 confirmed prior to appointment by the clerk of the county commission for any election ordered by  
38 the county commission or for any joint county and municipal election and by the official recorder  
39 of the municipality for a municipal election.

40 (e) The appropriate governing body shall appoint the election officials for each designated  
41 election board no later than the 49th day before the election as follows:

42 (1) Those eligible persons whose nominations for poll clerk and election commissioner  
43 were timely filed by the executive committees and those additional persons selected to serve as  
44 an election commissioner are to be appointed;

45 (2) The governing body shall fill any positions for which no nominations were filed.

46 (f) At the same time as the appointment of election officials or at a subsequent meeting  
47 the governing body shall appoint persons as alternates. However, no alternate may be eligible for  
48 compensation for election training unless the alternate is subsequently appointed as an election  
49 official or is instructed to attend and actually attends training as an alternate and is available to  
50 serve on election day. Alternates shall be appointed and serve as follows:

51 (1) Those alternates nominated by the executive committees shall be appointed;

52 (2) The governing body may appoint additional alternates who may be called upon to fill  
53 vacancies after all alternates designated by the executive committees have been assigned, have  
54 declined to serve or have failed to attend training; and

55 (3) The governing body may determine the number of persons who may be instructed to  
56 attend training as alternates.

57 (g) The clerk of the county commission shall appoint qualified persons to fill all vacancies  
58 existing after all previously appointed alternates have been assigned, have declined to serve or  
59 have failed to attend training.

60 (h) Within seven days following appointment, the clerk of the county commission shall  
61 notify, by first-class mail, all election commissioners, poll clerks and alternates of the fact of their  
62 appointment and include with the notice a response notice form for the appointed person to return  
63 indicating whether or not he or she agrees to serve in the specified capacity in the election.

64 (i) The position of any person notified of appointment who fails to return the response  
65 notice or otherwise confirm to the clerk of the county commission his or her agreement to serve  
66 within 14 days following the date of appointment is considered vacant and the clerk shall proceed  
67 to fill the vacancies according to the provisions of this section.

68 (j) If the governing body and the clerk of the county commission are unable to nominate a  
69 sufficient number of qualified persons agreeing to serve on a standard receiving board for each  
70 precinct, the clerk may assign members of one precinct's standard receiving board to serve  
71 simultaneously on the standard receiving board of another precinct where the polling places of

72 both precincts are located within the same physical building or facility: *Provided*, That no more  
73 than three precincts within the same building or facility may share board members in this manner.

74 (k) On election day, if an appointed election official or a poll clerk working a full day fails  
75 to appear at the polling place by ~~45 minutes past five o'clock~~ 5:45 a.m. on election day or, for a  
76 poll clerk working a half day, a later time designated by the clerk of the county commission, the  
77 election officials present shall contact the office of the clerk of the county commission for  
78 assistance in filling the vacancy. The clerk shall proceed as follows:

79 (1) The clerk may attempt to contact the person originally appointed, may assign an  
80 alternate nominated by the same political party as the person absent if one is available or, if no  
81 alternate is available, may appoint another eligible person;

82 (2) If the election officials present are unable to contact the clerk within a reasonable time,  
83 they shall diligently attempt to fill the position with an eligible person of the same political party as  
84 the party that nominated the person absent until a qualified person has agreed to serve;

85 (3) If two teams of election officials, as defined in §3-1-29 of this code, are present at the  
86 polling place, the person appointed to fill a vacancy in the position of the additional commissioner  
87 may be of either political party.

88 (l) In a municipal election, the recorder or other official designated by charter or ordinance  
89 to perform election responsibilities shall perform the duties of the clerk of the county commission  
90 as provided in this section.

91 (m) Nothing in this section shall be construed to require any county executive committee  
92 or county commission to offer half day shifts for poll clerks during any election.

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

1 (a) General elections shall be held in the several election precincts of the state on the  
2 Tuesday next after the first Monday in November of each even year. Primary and special elections  
3 shall be held on the days provided by law therefor: *Provided*, That beginning July 1, 2022, all local

4 municipal elections may be held concurrently with a regularly scheduled statewide primary or  
5 general election. Municipalities shall follow the provisions of §8-5-5 for coming to an agreement  
6 with the county for establishing the election date, shared costs if any, election officials and  
7 registration books to be used, and other matters pertaining to changing the municipal election to  
8 be held on the same day as the county-state primary or general election.

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

## **ARTICLE 2. REGISTRATION OF VOTERS.**

### **§3-2-19. Maintenance of active and inactive registration records for municipal elections.**

1 (a) For municipal elections, the registration records of active and inactive voters shall be  
2 maintained as follows:

3 (1) Clerks of the county commissions shall prepare pollbooks or voter lists to be used in  
4 municipal elections when the county precinct boundaries and the municipal precinct boundaries  
5 are the same and all registrants of the precinct are entitled to vote in state, county and municipal  
6 elections within the precinct or when the registration records of municipal voters within a county  
7 precinct are separated and maintained in a separate municipal section or book for that county  
8 precinct and can be used either alone or in combination with other pollbooks or voter lists to make  
9 up a complete set of registration records for the municipal election precinct.

10 (2) ~~Upon request of the municipality, and if the clerk of the county commission does not~~  
11 ~~object, separate municipal precinct books shall be maintained in cases where municipal or ward~~  
12 ~~boundaries divide county precincts and it is impractical to use county pollbooks or voter lists or~~  
13 ~~separate municipal sections of those pollbooks or voter lists. If the clerk of the county commission~~  
14 ~~objects to the request of a municipality for separate municipal precinct books, the State Election~~  
15 ~~Commission must determine whether the separate municipal precinct books should be~~  
16 ~~maintained~~

17           ~~(3)~~ No registration record may be removed from a municipal registration record unless the  
18 registration is lawfully transferred or canceled pursuant to the provisions of this article in both the  
19 county and the municipal registration records.

20           (b) Within 30 days following the entry of any annexation order or change in street names  
21 or numbers, the governing body of an incorporated municipality shall file with the clerk of the  
22 county commission a certified current official municipal boundary map and a list of streets and  
23 ranges of street numbers within the municipality to assist the clerk in determining whether a voter's  
24 address is within the boundaries of the municipality.

## **ARTICLE 11. AMENDMENTS TO THE STATE CONSTITUTION**

### **§3-11-1. Proposing amendments to state Constitution; withdrawal of proposed amendments.**

1           Any amendment to the Constitution of the State may be proposed in either house of the  
2 Legislature by a joint resolution.

3           When an amendment as proposed is agreed to as provided by section two, article fourteen  
4 of the Constitution, the question of ratification or rejection of such amendment shall be submitted  
5 to the voters of the state at the next primary or general election, as specified: *Provided*, That a  
6 statewide question on the issuance of bonds may be submitted to the voters of the state at a  
7 special election called for that purpose.

8           The Legislature may, by concurrent resolution adopted by a two-thirds vote of the  
9 members elected to each house, withdraw from consideration the question of ratification or  
10 rejection by the voters of such amendment in any session prior to the election at which it is to be  
11 submitted to the voters.

## **CHAPTER 7. COUNTY COMMISSIONS AND OFFICERS.**

### **ARTICLE 1. COUNTY COMMISSIONS GENERALLY.**

**§7-1-1a. Requirements for reforming, altering or modifying a county commission; alternative forms of county government.**

1 (a) A county government may be reformed, altered or modified as follows:

2 (1) The county commission or county council of the county may pass a resolution making  
3 application to the Legislature to reform, alter or modify an existing form of county government in  
4 accordance with the requirements of the West Virginia Constitution and this section; or

5 (2) Ten percent of the registered voters of the county may sign a petition requesting  
6 reformation, alteration or modification of the existing form of county government in accordance  
7 with the requirements of the West Virginia Constitution and this section.

8 (b) A county commission or county council seeking to make application to reform, alter or  
9 modify its county government pursuant to the provisions of section thirteen, article IX of the West  
10 Virginia Constitution shall adopt a resolution containing the following information:

11 (1) The reasons for the reformation, alteration or modification of the county commission  
12 or county government;

13 (2) The form of the proposed county government selected from the alternatives authorized  
14 by this section;

15 (3) The proposed name of the county government;

16 (4) When the question of reformation, alteration or modification of the county government  
17 will be on the ballot;

18 (5) How and when the officers of the proposed county government will be elected or  
19 appointed, taking into consideration the following:

20 (A) When the election on the question of reformation, alteration or modification of the  
21 county government will be held;

22 (B) The normal election cycles for county officials; and

23 (C) The time frames for early and absentee voting provided in article three, chapter three  
24 of this code; and

25 (6) When the new county government will become effective.

26 (c) Prior to the adoption of a resolution seeking to reform, alter or modify a county  
27 commission or county council, the governing body of the county shall publish by a Class II legal  
28 advertisement in one or more newspapers of general circulation throughout the county, in  
29 compliance with the provisions of §59-3-1 *et seq.* of this code, notice of the proposed changes to  
30 the current form of county government. The publication area shall be the entire county. The notice  
31 shall summarize the proposed changes to the county government and include the date, time and  
32 place for the meeting or meetings in which the resolution will be considered.

33 (d) After the publication and adoption of the resolution, the following information shall be  
34 submitted by the county to the Clerk of the Senate and to the Clerk of the House of Delegates no  
35 later than the tenth day of a regular legislative session in which the request for reforming, altering  
36 or modifying a county commission or county government is to be considered by the Legislature:

- 37 (1) A certified copy of the adopted resolution;  
38 (2) A copy of the required public notice;  
39 (3) The vote on the adoption of the resolution; and  
40 (4) The date the resolution was adopted.

41 (e) Registered voters of a county seeking to reform, alter or modify the county commission  
42 or county council pursuant to section thirteen, article IX of the West Virginia Constitution shall  
43 submit a petition, signed by ten percent of the registered voters in the county, to the county  
44 commission or county council, setting forth the information required in subsection (b) of this  
45 section. Upon receipt of the petition, the county commission or county council shall verify that the  
46 signatures on the petition are: (1) Legally registered voters of the county; and (2) equal to ten  
47 percent of the registered voters of the county.

48 (f) The county commission or county council shall, within thirty days of receipt of a  
49 Constitutionally defective petition, return it to the petitioners with a written statement as to why  
50 the petition is defective. The petitioners may, within 90 days of receipt of the written statement

51 from the county commission or council and after making the necessary changes, resubmit the  
52 petition to the county commission or county council.

53 (g) After verifying that the signatures on the petition meet the Constitutional requirements,  
54 the county commission or council shall forward the petition to the Clerk of the Senate and to the  
55 Clerk of the House of Delegates no later than the tenth day of a regular legislative session in  
56 which the request for reforming, altering or modifying a county commission or county government  
57 is to be considered by the Legislature.

58 (h) After receipt of a certified resolution or verified petition by the Clerk of the Senate and  
59 the Clerk of the House of Delegates, the Legislature shall determine whether all Constitutional  
60 and statutory requirements have been met. If such requirements have not been met, the certified  
61 resolution or verified petition shall be returned with a written statement of the deficiencies. A  
62 certified resolution or verified petition may be revised following the procedures set forth in this  
63 section for an original submission and then may be resubmitted to the Clerk of the Senate and  
64 the Clerk of the House of Delegates for consideration by the Legislature. The requirement that  
65 the petition be submitted prior to the tenth day of the legislative session shall not apply to  
66 resubmitted resolutions or petitions.

67 (i) Following passage of an act by the Legislature authorizing an election on the question  
68 of reforming, altering or modifying a county commission or council, the question shall be placed  
69 on the ballot of the county at the next primary or general election following such passage ~~or, at~~  
70 ~~the expense of the county, a special election.~~

71 (j) Following approval of the reformation, alteration or modification of the county  
72 commission or council by a majority of the county's registered voters, nomination of the county  
73 commission or council members and, where authorized, the chief executive, shall be held in the  
74 next primary election or the primary election set forth in the resolution or petition to reform, alter  
75 or modify the county commission or council. Election of the county commissioners or council  
76 members and, where authorized, the chief executive shall be held in the next general election or

77 the general election set forth in the resolution or petition to change the form of the county  
78 commission.

79 (k) All elections required by this section shall be held in accordance with the provisions of  
80 chapter three of this code.

81 (l) The following are guidelines for forms of county government:

82 (1) "*Chief executive - county commission plan*". — Under this plan:

83 (A) There shall be a chief executive elected by the registered voters of the county at large  
84 and three county commissioners that shall be elected at large;

85 (B) The commission shall be the governing body;

86 (C) The chief executive shall have the exclusive authority to supervise, direct and control  
87 the administration of the county government. The chief executive shall carry out, execute and  
88 enforce all ordinances, policies, rules and regulations of the commission;

89 (D) The salary of the chief executive shall be set by the Legislature;

90 (E) Other nonelected officers and employees shall be appointed by the chief executive  
91 subject to the approval of the county commission; and

92 (F) The chief executive shall not be a member of the county commission nor shall he or  
93 she hold any other elective office.

94 (2) "*County manager - county commission plan*". — Under this plan:

95 (A) There shall be a county manager appointed by the county commission and three  
96 county commissioners that may be elected at large;

97 (B) The commission shall be the governing body;

98 (C) The county manager shall have the exclusive authority to supervise, direct and control  
99 the administration of the county government. The county manager shall carry out, execute and  
100 enforce all ordinances, policies, rules and regulations of the commission;

101 (D) The salary of the county manager shall be set by the county commission;

102 (E) Other nonelected officers and employees shall be appointed by the county manager  
103 subject to the approval of the commission; and

104 (F) The county manager shall not be a member of the county commission nor shall he or  
105 she hold any other elective office.

106 (3) "*County administrator - county commission plan*". — Under this plan:

107 (A) There shall be a county administrator appointed by the county commission and three  
108 county commissioners that shall be elected at large;

109 (B) The commission shall be the governing body;

110 (C) The county administrator shall have the authority to direct the administration of the  
111 county government under the supervision of the county commission. The county administrator  
112 shall carry out, execute and enforce all ordinances, policies, rules and regulations of the  
113 commission;

114 (D) The salary of the county administrator shall be set by the county commission;

115 (E) The county administrator shall appoint or employ all subordinates and employees for  
116 whose duties or work he or she is responsible to the commission; and

117 (F) The county administrator shall not be a member of the county commission nor shall he  
118 or she hold any other elective office.

119 (4) A county council consisting of four or more members that shall be elected at large.

120 (5) Any form of county government adopted pursuant to section thirteen, article IX of the  
121 West Virginia Constitution and this section may, by the methods set forth in this section, return to  
122 the traditional county commission or change to another form of county government, as set out in  
123 this section.

124 (m) The purpose of this section is to establish the basic requirements for reforming,  
125 altering or modifying a county commission or county council pursuant to section thirteen, article  
126 IX of the West Virginia Constitution. The structure and organization of a county government may  
127 be specified in greater detail by resolution or ordinance so long as such provisions do not conflict

128 with the purposes and provisions set forth in this section, chapter seven-a of this code or the  
129 Constitution.

**ARTICLE 4. PROSECUTING ATTORNEY, REWARDS AND LEGAL ADVICE.**

**§7-4-1. Duties of prosecuting attorney; further duties upon request of Attorney General.**

1 (a) The prosecuting attorney shall attend to the criminal business of the state in the county  
2 in which he or she is elected and qualified and when the prosecuting attorney has information of  
3 the violation of any penal law committed within the county, the prosecuting attorney shall institute  
4 and prosecute all necessary and proper proceedings against the offender and may, in such case,  
5 issue or cause to be issued a summons for any witness the prosecuting attorney considers  
6 material. Every public officer shall give the prosecuting attorney information regarding the  
7 commission of any criminal offense committed within his or her county. The prosecuting attorney  
8 shall also attend to civil suits in the county in which the state or any department, commission or  
9 board thereof, is interested, and to advise, attend to, bring, prosecute or defend, as the case may  
10 be, all matters, actions, suits and proceedings in which such county or any county board of  
11 education is interested.

12 (b) (1) In furtherance of a prosecuting attorney's duty to investigate and prosecute criminal  
13 offenses, a prosecuting attorney and assistant prosecuting attorneys under his or her supervision  
14 shall have the authority to arrest any person committing a violation of the criminal laws of the  
15 State of West Virginia, the United States or a violation of Rule 42 of the West Virginia Rules of  
16 Criminal Procedure which occur within the office of the prosecuting attorney and committed in the  
17 presence of the prosecuting attorney or assistant prosecuting attorney.

18 (2) For purposes of subdivision (1) of this subsection, the arrest authority of a prosecuting  
19 attorney or assistant prosecuting attorney shall be consistent with that authority vested in a deputy  
20 sheriff within the geographic limitations set forth in said subdivision.

21 (3) Should a prosecuting attorney desire to establish a program authorizing prosecuting  
22 attorneys and assistant prosecuting attorneys to carry a concealed firearm for self-defense  
23 purposes pursuant to the provisions of 18 U. S. C. §926B, the following criteria must be met:

24 (A) The prosecuting attorney's office shall have a written policy authorizing the prosecuting  
25 attorney and his or her assistant prosecuting attorneys to carry a concealed firearm for self-  
26 defense purposes;

27 (B) There shall be in place in the office of the prosecuting attorney a requirement that the  
28 prosecuting attorney and assistant prosecuting attorneys must regularly qualify in the use of a  
29 firearm with standards therefor which are equal to or exceed those required of sheriff's deputies  
30 in the county in which the prosecuting attorney was elected or appointed;

31 (C) The office of the prosecuting attorney shall issue a photographic identification and  
32 certification card which identify the prosecuting attorney or assistant prosecuting attorneys as law-  
33 enforcement employees of the prosecuting attorney's office pursuant to the provisions of §30-29-  
34 12 of this code.

35 (4) Any policy instituted pursuant to paragraph (A), subdivision (3) of this subsection shall  
36 include provisions which: (i) Preclude or remove a person from participation in the concealed  
37 firearm program who is subject to any disciplinary or legal action which could result in the loss of  
38 the authority to participate in the program; (ii) preclude from participation persons prohibited by  
39 federal or state law from possessing or receiving a firearm and; (iii) prohibit persons from carrying  
40 a firearm pursuant to the provisions of this subsection while in an impaired state as defined in  
41 §17C-5-2 of this code.

42 (5) Any prosecuting attorney or assistant prosecuting attorney who participates in a  
43 program authorized by the provisions of this subsection shall be responsible, at his or her  
44 expense, for obtaining and maintaining a suitable firearm and ammunition.

45 (6) It is the intent of the Legislature in enacting the amendments to this section during the  
46 2017 regular session of the Legislature to authorize prosecuting attorney's offices wishing to do

47 so to allow prosecuting attorneys and assistant prosecuting attorneys to meet the requirements  
48 of the federal Law-Enforcement Officer's Safety Act, 18 U. S. C. §926B.

49 (c) The prosecuting attorney shall keep his or her office open in the charge of a responsible  
50 person during the hours when polls are open during general and primary ~~and special~~ countywide  
51 election days, and the prosecuting attorney, or the prosecuting attorney's assistant, if any, shall  
52 be available for the purpose of advising election officials. The prosecuting attorney, when  
53 requested by the Attorney General, shall perform or assist the Attorney General in performing, in  
54 the county in which the prosecuting attorney is elected, any legal duties required to be performed  
55 by the Attorney General and which are not inconsistent with the duties of the prosecuting attorney  
56 as the legal representative of the county. The prosecuting attorney, when requested by the  
57 Attorney General, shall perform or assist the Attorney General in performing, any legal duties  
58 required to be performed by the Attorney General in any county other than that in which the  
59 prosecuting attorney is elected and for the performance of these duties in any county other than  
60 that in which the prosecuting attorney is elected, the prosecuting attorney shall be paid his or her  
61 actual expenses.

62 Upon the request of the Attorney General, the prosecuting attorney shall make a written  
63 report of the state and condition of the several causes in which the state is a party, pending in his  
64 or her county, and upon any matters referred to the prosecuting attorney by the Attorney General  
65 as provided by law.

**ARTICLE 14B. CIVIL SERVICE FOR CORRECTIONAL OFFICERS.**

**§7-14B-21. County commission of counties with a population of less than twenty-five  
thousand may place correctional officers under civil service; protest and election  
with respect thereto.**

1 The county commission of any county having a population of less than 25,000 may by  
2 order entered of record provide that the provisions of this article providing civil service for  
3 correctional officers shall apply to such county on and after the effective date of this article. A

4 copy of such order, together with a notice advising the qualified voters of such county of their right  
5 to protest the placing of correctional officers of such county under civil service, shall be published  
6 as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this  
7 code, and the publication area for such publication shall be the county.

8 In the event 15 percent of the qualified voters of such county protest such order, by petition  
9 duly signed by them in their own handwriting (which petition may be signed in any number of  
10 counterparts) and filed with the county clerk of such county within 60 days after publication of  
11 such copy and notice, such order shall not become effective unless and until it is ratified by a  
12 majority of the legal votes cast with respect to the question of civil service coverage for the  
13 correctional officers of such county by the qualified voters of such county at a ~~regular or special~~  
14 primary or general election. Any such election shall be conducted and superintended and the  
15 results thereof ascertained as provided by law for ~~regular or special~~ primary or general elections,  
16 as the case may be.

17 Whenever the correctional officers of any county are placed under civil service pursuant  
18 to the provisions of this section, such civil service system for the correctional officers of such  
19 county shall thereupon become mandatory and all of the provisions of this article shall apply to  
20 the correctional officers of such county with like effect as if said county had a population of 25,000  
21 or more.

## **ARTICLE 17. COUNTY FIRE BOARDS.**

### **§7-17-12. County fire service fees; petition; election; dedication; and amendment.**

1 (a) Every county commission which provides fire protection services has plenary power  
2 and authority to provide by ordinance for the continuance or improvement of such service, to  
3 make regulations with respect thereto and to impose by ordinance, upon the users of such  
4 services, reasonable fire service rates, fees and charges to be collected in the manner specified  
5 in the ordinance.

6 (b) Any fees imposed under this article are dedicated to the county fire board for the  
7 purposes provided in this article.

8 (c) A county commission can impose by ordinance, upon the users of such service, a  
9 reasonable fire service fee, by one of two methods:

10 (1) Ten percent of the qualified voters shall present a petition duly signed by them in their  
11 own handwriting, and filed with the clerk of the county commission, directing that the county  
12 commission impose such a fee. The county commission shall not have a lien on any property as  
13 security for payments due under the ordinance. Any ordinance enacted under the provisions of  
14 this section shall be published as a Class II legal advertisement in compliance with the provisions  
15 of §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the county  
16 in which the county fire board is located. In the event 30 percent of the qualified voters of the  
17 county by petition duly signed by them in their own handwriting and filed with the clerk of the  
18 county commission within 45 days after the expiration of such publication protest against such  
19 ordinance as enacted or amended, the ordinance may not become effective until it is ratified by a  
20 majority of the legal votes cast thereon by the qualified voters of such county at any primary or  
21 general ~~or special~~ election as the county commission directs. Voting thereon may not take place  
22 until after notice of the submission has been given by publication as above provided for the  
23 publication of the ordinance after it is adopted. The powers and authority hereby granted to county  
24 commissions are in addition to and supplemental to the powers and authority otherwise granted  
25 to them by other provisions of this code; or

26 (2) If the county fire board determines an amendment in the fee imposed in subsection (a)  
27 of this article is necessary, it may, by resolution, request the county commission for such a  
28 change. Upon receipt of the resolution from the county fire board, the county commission shall,  
29 by ballot referendum, amend the ordinance imposing a fire fee and adopt the changes in the fee  
30 requested by the county fire board.

31 (A) This referendum, to determine whether it is the will of the voters of a county that an  
32 amendment to the fire fee is necessary, may be held at any regular primary or general election,  
33 or, in conjunction with any other countywide election. Any election at which the question of  
34 amending the fire fee is voted upon shall be held at the voting precincts established for holding  
35 primary or general elections. All of the provisions of the election laws, when not in conflict with  
36 the provisions of this article, shall apply to voting and elections hereunder, insofar as practicable.  
37 The county commission shall, not less than 90 days before the election, order that the issue be  
38 placed on the ballot and referendum held at the next primary, or general, or special election to  
39 determine whether it is the will of the voters of the county that a fire fee be amended: *Provided*,  
40 That prior to issuing the order, the county commission shall publish the ordinance which must  
41 contain the anticipated allocation of any fees or charges and which would be enacted should the  
42 referendum succeed as a Class II legal advertisement in compliance with the provisions of §59-  
43 3-1 *et seq.* of this code, and the publication area for such publication shall be the county in which  
44 the county fire board is located.

45 (B) The ballot, or the ballot labels where voting machines are used, shall have printed  
46 thereon substantially the following:

47 "Shall the county commission be permitted to amend the fire fee in \_\_\_\_\_ County,  
48 West Virginia?

49 \_\_\_ For the fee amendment.

50 \_\_\_ Against the fee amendment.

51 (Place a cross mark in the square opposite your choice.)"

52 (C) If a majority of legal votes cast upon the question be for the fire fee amendment, the  
53 county commission shall, after the certification of the results of the referendum, thereafter adopt  
54 an ordinance, within 60 days of certification, establishing the fire fee amendment in the county:  
55 *Provided*, That such program shall be implemented and operational no later than 12 months  
56 following certification. If a majority of the legal votes cast upon the question be against the fire fee

57 amendment, then the policy shall not take effect, but the question may again be submitted to a  
58 referendum at any subsequent election in the manner herein provided.

**ARTICLE 20. FEES AND EXPENDITURES FOR COUNTY DEVELOPMENT.**

**§7-20-7. Establishment of impact fees; levies may be used to fund existing capital improvements.**

1 (a) Impact fees assessed against a development project to fund capital improvements and  
2 public services may not exceed the actual proportionate share of any benefit realized by such  
3 project relative to the benefit to the resident taxpayers.

4 Notwithstanding any other provision of this code to the contrary, those counties that meet  
5 the requirements of §7-20-6 of this code are hereby authorized to assess, levy, collect and  
6 administer any tax or fee as has been or may be specifically authorized by the Legislature by  
7 general law to the municipalities of this state: *Provided*, That any assessment, levy or collection  
8 shall be delayed 60 days from its regular effective date: *Provided, however*, That in the event  
9 fifteen percent of the qualified voters of the county by petition duly signed by them in their own  
10 handwriting and filed with the county commission within 45 days after any impact fee or levy is  
11 imposed by the county commission, pursuant to this article, the fee or levy protested may not  
12 become effective until it is ratified by a majority of the legal votes cast thereon by the qualified  
13 voters of such county at any primary or general ~~or special~~ election as the county commission  
14 directs. Voting thereon may not take place until after notice of the subcommission of the fee a  
15 levy on the ballot has been given by publication of class II legal advertisement and publication  
16 area shall be the county where such fee or levy is imposed: *Provided further*, That counties may  
17 not “double tax” by applying a given tax within any corporate boundary in which that municipality  
18 has implemented such tax. Any such taxes or fees collected under this law may be used to fund  
19 a proportionate share of the cost of existing capital improvements and public services where it is  
20 shown that all or a portion of existing capital improvements and public services were provided in  
21 anticipation of the needs of new development.

22 (b) In determining a proportionate share of capital improvements and public services  
23 costs, the following factors shall be considered:

24 (1) The need for new capital improvements and public services to serve new development  
25 based on an existing capital improvements plan that shows (A) any current deficiencies in existing  
26 capital improvements and services that serve existing development and the means by which any  
27 such deficiencies may be eliminated within a reasonable period of time by means other than  
28 impact fees or additional levies; and (B) any additional demands reasonably anticipated as the  
29 result of capital improvements and public services created by new development;

30 (2) The availability of other sources of revenue to fund capital improvements and public  
31 services, including user charges, existing taxes, intergovernmental transfers, in addition to any  
32 special tax or assessment alternatives that may exist;

33 (3) The cost of existing capital improvements and public services;

34 (4) The method by which the existing capital improvements and public services are  
35 financed;

36 (5) The extent to which any new development, required to pay impact fees, has contributed  
37 to the cost of existing capital improvements and public services in order to determine if any credit  
38 or offset may be due such development as a result thereof;

39 (6) The extent to which any new development, required to pay impact fees, is reasonably  
40 projected to contribute to the cost of the existing capital improvements and public services in the  
41 future through user fees, debt service payments, or other necessary payments related to funding  
42 the cost of existing capital improvements and public services;

43 (7) The extent to which any new development is required, as a condition of approval, to  
44 construct and dedicate capital improvements and public services which may give rise to the future  
45 accrual of any credit or offsetting contribution; and

46 (8) The time-price differentials inherent in reasonably determining amounts paid and  
47 benefits received at various times that may give rise to the accrual of credits or offsets due new  
48 development as a result of past payments.

49 (c) Each county shall assess impact fees pursuant to a standard formula so as to ensure  
50 fair and similar treatment to all affected persons or projects. A county commission may provide  
51 partial or total funding from general or other nonimpact fee funding sources for capital  
52 improvements and public services directly related to new development, when such development  
53 benefits some public purpose, such as providing affordable housing and creating or retaining  
54 employment in the community

**§7-20-12. Countywide service fees.**

1 (a) Notwithstanding any provision of this code to the contrary, every county shall have  
2 plenary power and authority to impose a countywide service fee upon each employee and self-  
3 employed individual for each week or part of a calendar week the individual works within the  
4 county, subject to the following:

5 (1) No individual shall pay the fee more than once for the same week of employment within  
6 the county.

7 (2) The fee imposed pursuant to this section is in addition to all other fees imposed by the  
8 jurisdiction within which the individual is employed.

9 (3) The fee imposed pursuant to this section may not take effect until the first day of a  
10 calendar month, as set forth in the order of the county commission establishing the fee, that begins  
11 at least thirty days after a majority of the registered voters of the county voting on the question  
12 approve imposition of the service fee, in a primary or general ~~or a special~~ election held in the  
13 county.

14 (4) The order of the county commission shall provide for the administration, collection and  
15 enforcement of the service fee. Employers who have employees that work in the county imposing  
16 the service fee shall withhold the fee from compensation paid to the employee and pay it over to

17 the county as provided in the order of the county commission. Self-employed individuals shall pay  
18 the service fee to the county commission in accordance with the order establishing the fee.

19 (5) The terms “employed”, “employee”, “employer” and “self-employed” have the following  
20 meaning:

21 (A) “Employed” shall include an employee working for an employer so as to be subject to  
22 any federal or state employment or wage withholding requirement and a self-employed individual  
23 working as a sole proprietor or member of a firm so as to be subject to self-employment tax. An  
24 employee shall be considered employed in a calendar week so long as the employee remains on  
25 the current payroll of an employer deriving compensation for such week and the employee has  
26 not been permanently assigned to an office or place of business outside the county. A self-  
27 employed individual shall be considered employed in a calendar week so long as such individual  
28 has not permanently discontinued employment within the county.

29 (B) “Employee” means any individual who is employed at or physically reports to one or  
30 more locations within the county and is on the payroll of an employer, on a full-time or part-time  
31 basis or temporary basis, in exchange for salary, wages or other compensation.

32 (C) “Employer” means any person, partnership, limited partnership, limited liability  
33 company, association (unincorporated or otherwise), corporation, institution, trust, governmental  
34 body or unit or agency, or any other entity (whether its principal activity is for-profit or not-for-  
35 profit) situated, doing business, or conducting its principal activity in the county and who employs  
36 an employee, as defined in this section.

37 (D) “Self employed individual” means an individual who regularly maintains an office or  
38 place of business for conducting any livelihood, job, trade, profession, occupation, business or  
39 enterprise of any kind within the county’s geographical boundaries over the course of four or more  
40 calendar weeks, which need not be consecutive, in any given calendar year.

41 (6) All revenues generated by the county service fee imposed pursuant to this section shall  
42 be dedicated to and shall be exclusively utilized for the purpose or purposes set forth in the

43 referendum approved by the voters, including, but not limited to, the payment of debt service on  
44 any bonds issued pursuant to §7-20-13 of this code and any costs related to the administration,  
45 collection and enforcement of the service fee.

46 (b) Any order entered by a county commission imposing a countywide service fee pursuant  
47 to this part, or increasing or decreasing a countywide service fee previously adopted pursuant to  
48 this part, shall be published as a Class II legal advertisement in compliance with the provisions of  
49 §59-3-1 *et seq.* of this code and the publication area for the publication shall be the county. The  
50 order shall not become effective until it is ratified by a majority of the lawful votes cast thereon by  
51 the qualified voters of the county at a primary or general ~~or special~~ election, as the county  
52 commission shall direct. Voting thereon shall not take place until after notice of the referendum  
53 shall have been given by publication as above provided for the publication of the order after it is  
54 adopted by the county commission. The notice of referendum shall at a minimum include: (1) The  
55 date of the referendum; (2) the amount of countywide service fee; (3) a general description of the  
56 capital improvement or improvements included in the special infrastructure project to be financed  
57 with the service fee; (4) whether revenue bonds will be issued; and (5) if bonds are to be issued,  
58 the estimated term of the revenue bonds. The county commission may include additional  
59 information in the notice of referendum.

## **CHAPTER 8. MUNICIPAL CORPORATIONS.**

### **ARTICLE 1. PURPOSE AND SHORT TITLE; DEFINITIONS; GENERAL PROVISIONS; CONSTRUCTION.**

#### **PART II. DEFINITIONS.**

##### **§8-1-2. Definitions of terms.**

1 (a) For the purpose of this chapter:

2 (1) "Municipality" is a word of art and shall mean and include any Class I, Class II and  
3 Class III city and any Class IV town or village, heretofore or hereafter incorporated as a municipal  
4 corporation under the laws of this state;

5 (2) "City" is a word of art and shall mean, include and be limited to any Class I, Class II  
6 and Class III city, as classified in section three of this article (except in those instances where the  
7 context in which used clearly indicates that a particular class of city is intended), heretofore or  
8 hereafter incorporated as a municipal corporation under the laws of this state, however created  
9 and whether operating under (i) a special legislative charter, (ii) a home rule charter framed and  
10 adopted or revised as a whole or amended under the provisions of former §8A-1-1 *et seq.* of this  
11 code or under the provisions of §8-3-1 or §8-4-1 of this code, (iii) general law, or (iv) any  
12 combination of the foregoing; and

13 (3) "Town or village" is a term of art and shall, notwithstanding the provisions of §2-2-10  
14 of this code, mean, include and be limited to any Class IV town or village, as classified in §8-3-1  
15 of this code, heretofore or hereafter incorporated as a municipal corporation under the laws of  
16 this state, however created and whether operating under (i) a special legislative charter, (ii)  
17 general law, or (iii) a combination of the foregoing.

18 (b) For the purpose of this chapter, unless the context clearly requires a different meaning:

19 (1) "Governing body" shall mean the mayor and council together, the council, the board of  
20 directors, the commission, or other board or body of any municipality, by whatever name called,  
21 as the case may be, charged with the responsibility of enacting ordinances and determining the  
22 public policy of such municipality; and in certain articles dealing with intergovernmental relations  
23 shall also mean the county ~~court~~ commission of any county or governing board of other units of  
24 government referred to in said articles;

25 (2) "Councilmen" shall mean the members of a governing body, by whatever name such  
26 members may be called;

27 (3) "Mayor" shall mean the individual called mayor unless as to a particular municipality a  
28 commissioner (in a commission form of government) or the city manager (in a manager form of  
29 government) is designated or constituted by charter provision as the principal or chief executive  
30 officer or chief administrator thereof, in which event the term "mayor" shall mean as to such

31 municipality such commissioner or city manager unless as to any particular power, authority, duty  
32 or function specified in this chapter to be exercised, discharged or fulfilled by the mayor it is  
33 provided by charter provision or ordinance that such particular power, authority, duty or function  
34 shall be exercised, discharged or fulfilled by the individual called mayor and not by a  
35 commissioner or city manager, in which event such particular power, authority, duty or function  
36 shall in fact be exercised, discharged or fulfilled in and for such municipality by the individual  
37 called mayor: *Provided*, That in the exercise and discharge of the ex officio justice of the peace,  
38 conservator of the peace and mayor's court functions specified in this chapter, the term "mayor"  
39 shall always mean the individual called mayor;

40 (4) "Recorder" shall mean the recorder, clerk or other municipal officer, by whatever name  
41 called, charged with the responsibility of keeping the journal of the proceedings of the governing  
42 body of the municipality and other municipal records;

43 (5) "Treasurer" shall mean the treasurer or other municipal officer, by whatever name  
44 called, exercising the power and authority commonly exercised by a treasurer;

45 (6) "Administrative authority" shall mean the officer, commission or person responsible for  
46 the conduct and management of the affairs of the municipality in accordance with the charter,  
47 general law and the ordinances, resolutions and orders of the governing body thereof;

48 (7) "Charter" shall mean, except where specific reference is made to a particular type of  
49 charter, either a special legislative charter (whether or not amended under the provisions of former  
50 chapter eight-a of this code or under article four of this chapter, and although so amended, such  
51 special legislative charter shall, for the purposes of this chapter, remain a special legislative  
52 charter), or a home rule charter framed and adopted or revised as a whole or amended by a city  
53 under the provisions of former chapter eight-a of this code or under the provisions of article three  
54 or article four of this chapter;

55 (8) "Ordinance" shall mean the ordinances and laws enacted by the governing body of a  
56 municipality in the exercise of its legislative power, and in one or more articles of this chapter,  
57 ordinances enacted by a county ~~court~~ commission;

58 (9) "Inconsistent or in conflict with" shall mean that a charter or ordinance provision is  
59 repugnant to the Constitution of this state or to general law because such provision (i) permits or  
60 authorizes that which the Constitution or general law forbids or prohibits, or (ii) forbids or prohibits  
61 that which the Constitution or general law permits or authorizes;

62 (10) "Qualified elector," "elector," "qualified voter" or "legal voter" shall mean any individual  
63 who, at the time ~~he~~ the individual offers to vote or at the time ~~he~~ the individual participates in any  
64 event or activity (such as signing a petition) under the provisions of this chapter for which ~~he~~ the  
65 individual must be a qualified elector, elector, qualified voter or legal voter, is a resident within the  
66 corporate limits of the municipality or within the boundaries of a territory referred to in this chapter,  
67 as the case may be, and who (i) has been a resident of the state for one year and of the  
68 municipality or territory in question for at 60 sixty days next preceding such election or date  
69 pertinent to any such event or activity, and (ii) in the case of a regular municipal election, special  
70 municipal election, municipal public question election or any such municipal event or activity, is  
71 duly registered on the municipal registration books set up in the office of the clerk of the county  
72 ~~court~~ commission of the county in which the municipality or the major portion of the territory thereof  
73 is located under the integration of the municipal registration of voters with the "permanent  
74 registration system" of the state, or, in the event there be no such integration of the municipal  
75 registration of voters, is duly registered in the county in which ~~he~~ the individual resides to vote in  
76 state-county elections, or (iii) in the case of a territory election, general election or any such  
77 territory event or activity, is duly registered in the county in which ~~he~~ the individual resides to vote  
78 in state-county elections; and any charter provision or ordinance establishing a voting residency  
79 requirement different than that in this definition provided shall be of no force and effect; and in  
80 any case where a particular percentage of the qualified electors, electors, qualified voters or legal

81 voters is required under the provisions of this chapter in connection with any such event or activity  
82 as aforesaid, the percentage shall be determined on the basis of the number of qualified electors,  
83 electors, qualified voters or legal voters, as of the time of such event or activity, unless it is  
84 impracticable to determine such percentage as of such time and it is provided by ordinance,  
85 resolution or order that the percentage shall be determined on the basis of the number of qualified  
86 electors, electors, qualified voters or legal voters, as of the date of the last preceding election  
87 (whether a general election, regular municipal election or special municipal election and whether  
88 or not they voted at such election) held in such municipality or territory, as the case may be;

89 (11) "Public question" shall mean any issue or proposition required to be submitted to the  
90 qualified voters of a municipality or of a territory referred to in this chapter for decision at an  
91 election, as the case may be;

92 (12) "Inhabitant" shall mean any individual who is a resident within the corporate limits of  
93 a municipality or within the boundaries of a territory referred to in this chapter, as the case may  
94 be;

95 (13) "Resident" shall mean any individual who maintains a usual and bona fide place of  
96 abode within the corporate limits of a municipality or within the boundaries of a territory referred  
97 to in this chapter, as the case may be;

98 (14) "Freeholder" shall mean any person (and in the case of an individual one who is sui  
99 juris and is not under a legal disability) owning a "freehold interest in real property";

100 (15) "Freehold interest in real property" shall mean any fee, life, mineral, coal or oil or gas  
101 interest in real property, whether legal or equitable, and whether as a joint tenant or a tenant in  
102 common, but shall not include a leasehold interest (other than a mineral, coal or oil or gas  
103 leasehold interest), a dower interest, or an interest in a right-of-way or easement, and the freehold  
104 interest of a church or other unincorporated association shall be considered as one interest and  
105 not as an individual interest of each member thereof;

106 (16) "County ~~court~~ commission" shall mean the governmental body created by section  
107 twenty-two, article eight of the Constitution of this state, or any existing tribunal created in lieu of  
108 a county ~~court~~ commission;

109 (17) "Code" shall mean the Code of West Virginia, 1931, as heretofore and hereafter  
110 amended; and

111 (18) "Person" shall mean any individual, firm, partnership, corporation, company,  
112 association, joint-stock association, or any other entity or organization of whatever character or  
113 description.

114 (c) The term "intergovernmental relations" is used in this chapter to mean undertakings  
115 and activities which may be undertaken or engaged in by two or more units of government acting  
116 jointly, and in certain headings in this chapter to call attention to the fact that the provisions under  
117 such headings apply to units of government in addition to municipalities.

118 (d) For the purpose of this chapter, unless the context clearly indicates to the contrary,  
119 words importing the masculine gender shall include both the masculine and feminine gender, and  
120 the phrase "charter framed and adopted or revised as a whole or amended (or words of like  
121 import) under the provisions of former chapter eight-a of this code" shall include a charter framed  
122 and adopted or revised as a whole or amended under the provisions of former article two of former  
123 chapter eight of this code.

## **ARTICLE 2. CREATION OF MUNICIPALITIES.**

### **PART II. ELECTION.**

#### **§8-2-5. Special incorporation election — Voting precincts; time for election; supplies; commissioners and clerks; notice.**

1 Upon receiving such a report from said enumerators, the county ~~court~~ commission shall  
2 forthwith fix a date for a special incorporation election, ~~not later than thirty days thereafter~~ to be  
3 held concurrently with the next regularly scheduled primary or general election if there are more

4 than 90 days preceding such election, and, if not, then, at the next succeeding regularly scheduled  
5 primary or general election, and at ~~on~~ which election all qualified electors of the territory shall vote  
6 upon the question of incorporation between such hours as may be fixed by order of said ~~court~~  
7 commission. For the purpose of holding and conducting said election, the county ~~court~~  
8 commission shall divide the territory into one or more precincts, consisting of not more than five  
9 hundred qualified voters in each precinct; shall arrange for and provide at its expense polling  
10 places, registration books, challenges and other election supplies as provided for by law in  
11 general elections; shall appoint three commissioners of election and two clerks from the qualified  
12 electors of said territory for each precinct so established, dividing the election officials as nearly  
13 as possible equally between those favoring incorporation and those opposed to incorporation;  
14 and shall give notice of the date and place or places of election and hours for voting by publication  
15 of such notice as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et*  
16 *seq.* of this code, and the publication area for such publication shall be the territory sought to be  
17 incorporated.

**ARTICLE 3. FRAMING AND ADOPTING AN ORIGINAL CHARTER FOLLOWING  
INCORPORATION OF A CITY; REVISING OR AMENDING A CHARTER;  
EXPENSES OF INCORPORATION.**

**§8-3-6. Same — Special election; time for election; notice; voting precincts; supplies;  
officials; certification; canvass; declaration of results; recount.**

1 The proposed charter shall be submitted to the qualified voters of the incorporated territory  
2 for approval or rejection at a special election ordered by the county ~~court~~ commission to be held  
3 ~~not less than thirty days nor more than ninety days following the date on which the two copies of~~  
4 ~~the completed charter were filed with the clerk of the county court~~ concurrently with the next  
5 regularly scheduled primary or general election if there are more than 90 days preceding such  
6 election, and, if not, then, at the next succeeding regularly scheduled primary or general election,

7 and at which election the officers provided for by said proposed charter and to be elected shall be  
8 voted upon in the manner provided in said proposed charter. The county ~~court~~ commission shall  
9 cause notice of the date, hours, place and purpose of such election to be given by publication  
10 thereof as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of  
11 this code, and the publication area for such publication shall be the incorporated territory. The first  
12 of said publications shall be made not less than thirty days prior to the date fixed for the election.  
13 Each such notice of election shall state that upon request any qualified voter and any freeholder  
14 of the incorporated territory may obtain a copy of the proposed charter from a designated person  
15 at a designated place.

16 For the purpose of holding and conducting said election, the county ~~court~~ commission  
17 shall divide the incorporated territory into one or more temporary precincts, consisting of not more  
18 than five hundred qualified voters in each temporary precinct; shall arrange for and provide at its  
19 expense polling places, registration books, challenges and other election supplies as provided for  
20 by law in general elections; and shall appoint three commissioners of election and two clerks from  
21 the qualified voters of said incorporated territory for each temporary precinct so established,  
22 subject, however, to the provisions of section eleven, article four of this chapter. Such election  
23 shall be held and conducted under the supervision of the commissioners and clerks of election  
24 appointed by the county ~~court~~ commission as aforesaid and shall be conducted as nearly as may  
25 be in accordance with the laws of this state governing general elections. The results of such  
26 election, both as to approval or rejection of the proposed charter and the election of officers, shall  
27 be certified as in general elections, and the returns shall be canvassed and the results declared  
28 by the county ~~court~~ commission. In the event any commissioner or clerk designated to serve in  
29 said election shall fail or refuse to serve, such vacancy may be filled in like manner as such  
30 vacancies are filled in general elections under the laws of this state governing general elections.  
31 A recount may be had, as in general elections, upon the party or parties desiring such recount

32 providing adequate assurance to the county court commission that ~~he or they~~ the party or parties  
33 will pay all costs of such recount.

**ARTICLE 4. FRAMING AND ADOPTING A CHARTER OTHER THAN IMMEDIATELY  
FOLLOWING INCORPORATION; REVISING OR AMENDING A CHARTER;  
ELECTIONS AND EXPENSES.**

PART II. REVISING OR AMENDING A CHARTER.

**§8-4-7. Revising or amending a charter — Generally.**

1 A special legislative charter or a charter framed and adopted or revised as a whole under  
2 the provisions of former chapter eight-a of this code, under §8-3-1 *et seq.* of this code or under  
3 §8-4-1 *et seq.* of this code, as the case may be, may be revised as a whole in like manner as a  
4 charter may be framed and adopted under the provisions of §8-4-1 *et seq.* of this code, except  
5 that the question submitted shall be “Shall the charter be revised as a whole by representatives  
6 of the people?”, but no such revision as a whole shall be made within four years of the effective  
7 date of such a charter or of the last preceding revision as a whole, whichever be later, as the case  
8 may be. A revision as a whole may also be initiated in the manner specified in §8-3-9 of this code  
9 or in the manner specified in said section nine considered in *pari materia* with the provisions of  
10 §8-3-9 of this code. If a majority of the legal votes cast on the question be in the negative or if the  
11 proposed charter revised as a whole is rejected by a majority of the legal votes cast at the election  
12 thereon, the provisions of §8-4-2 and §8-4-3 of this code relating to a negative vote on the  
13 question of framing a charter and to rejection of a proposed charter shall govern and control.

14 The qualified voters of a city may amend a special legislative charter or a charter framed  
15 and adopted or revised as a whole under the provisions of former chapter eight-a of this code,  
16 under §8-3-1 *et seq.* of this code or under §8-4-1 *et seq.* of this code, as the case may be, but no  
17 amendment shall be made within one year of the effective date of such a charter or of the last  
18 preceding revision of such charter as a whole, whichever be later, as the case may be. An

19 amendment or amendments may be initiated in the same manner provided in this article for the  
20 framing of a charter, in the manner specified in §8-3-9 of this code, or in the manner specified in  
21 said section nine considered in pari materia with the provisions of §8-4-3. The governing body of  
22 a city shall provide by ordinance for a special municipal election to pass upon a proposed charter  
23 amendment or amendments if (1) such governing body by the affirmative vote of two thirds of its  
24 members shall determine and specify that a special municipal election is necessary; or (2) a  
25 petition bearing the signatures, written in their own handwriting, of fifteen percent of the qualified  
26 voters of the city, if a Class I or Class II city, or ten percent of the qualified voters of the city, if a  
27 Class III city, expressly requesting that a special municipal election be called for the purpose has  
28 been filed with the governing body more than one hundred twenty days prior to the date of the  
29 next regular municipal election. In all other cases, a proposed charter amendment or amendments  
30 shall be submitted by ordinance at the next regular municipal election. Any proposed amendment  
31 or amendments shall be set out in full in the ordinance submitting same. The date of any special  
32 municipal election for the purpose shall be fixed by the ordinance providing for same, but any  
33 such special municipal election shall be held not less than thirty nor more than 60 days after such  
34 ordinance shall have been adopted. Notice of any election at which a proposed amendment or  
35 amendments shall be voted upon shall state the date and hours thereof, and shall set out the  
36 proposed amendment or amendments at length or state that copies may be obtained by any  
37 qualified voter or any freeholder of the city from a designated person at a stated place, upon  
38 request. Such notice shall be published as in the case of a notice of an election on the question  
39 of whether a charter shall be framed, as specified in §8-4-2 of this code. A charter amendment or  
40 amendments approved, or such of them as may be approved, by a majority of the legal votes cast  
41 at the election thereon shall take effect on the date that the declaration of the results showing  
42 approval by the voters has been made by the governing body and entered in the minutes of the  
43 governing body. One copy of the amendment or amendments, together with a certified copy of  
44 the declaration of results attached thereto, shall be certified forthwith by the recorder of the city to

45 the Clerk of the House of Delegates, as keeper of the rolls, and another to the clerk of the county  
46 ~~court~~ commission for recording in the office of such clerk of the county ~~court~~ commission. The  
47 same shall be preserved by said Clerk of the House of Delegates as an authentic public record.  
48 After the effective date of an amendment or amendments so filed, all courts shall take judicial  
49 notice of such amendment or amendments.

50 If a majority of the legal votes cast at the election thereon be against any amendment,  
51 such proposed amendment shall not be submitted again, without a petition of the qualified voters  
52 as provided for in §8-4-1(b) of this code considered in pari materia with the provisions of this  
53 section, for at least one year.

**§8-4-8. Same — An alternate plan.**

1 Whenever the governing body of any city shall deem it expedient to amend the charter of  
2 any such city (whether such charter be a special legislative charter or a charter framed and  
3 adopted or revised as a whole under the provisions of former chapter eight-a of this code, under  
4 §8-3-1 *et seq.* of this code or under §8-4-1 of this code, as the case may be), it shall, by ordinance,  
5 set out in its proper record book the proposed amendment or amendments in full. The governing  
6 body shall set a date, time and place for a public hearing thereon, which date shall be not less  
7 than 30 days after the date of the first publication hereinafter required. The governing body shall  
8 cause the proposed amendment or amendments, together with a notice of the date, time and  
9 place fixed for the hearing thereon, to be published as a Class II-0 legal advertisement in  
10 compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such  
11 publication shall be the city. The notice shall state that the proposed amendment or amendments  
12 will be considered on the date and at the time and place fixed by the governing body and that any  
13 qualified voter or any freeholder of the city may appear and file objections, in writing, and also  
14 that if no objections are filed the said amendment or amendments shall become operative on and  
15 after a date fixed in the notice, which date shall be not less than ten days after the date of the  
16 hearing. If no objections are filed, or if objections are filed and are withdrawn at the time of the

17 hearing, or within ten days thereafter, the governing body shall, by ordinance, adopt the  
18 amendment or amendments as an amendment or amendments to the charter, and cause a copy  
19 of the amendment or amendments, ordinance and transcript of the proceedings to be certified to  
20 the Clerk of the House of Delegates, as keeper of the rolls, and to be recorded in the office of the  
21 clerk of the county ~~court~~ commission. The same shall be preserved by such Clerk of the House  
22 of Delegates as an authentic public record. The amendment or amendments shall take effect on  
23 the effective date specified in the notice as aforesaid. After the effective date, all courts shall take  
24 judicial notice of such amendment or amendments.

25         If, on the date and at the time and place set for the hearing, objections to the amendment  
26 or amendments are filed and are not withdrawn then or within ten days thereafter, the governing  
27 body may abandon the proposed amendment or amendments to which objections have been  
28 filed, or it may submit the proposed amendment or amendments, either as a unit or separately, at  
29 the next regular municipal election, or at a special municipal election if such governing body by  
30 the affirmative vote of two thirds of its members shall determine and specify that a special  
31 municipal election is necessary and if the date of such regular municipal election shall be more  
32 than six months from such date, for ratification or rejection. Notice of any election at which the  
33 proposed amendment or amendments shall be voted upon shall state the date and hours thereof  
34 and shall set out the proposed amendment or amendments at length or state that copies may be  
35 obtained by any qualified voter or any freeholder of the city from a designated person at a stated  
36 place, upon request. The governing body shall cause such notice to be published as a Class II-0  
37 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the  
38 publication area for such publication shall be the city. The amendment or amendments approved,  
39 or such of them as may be approved, by a majority of the legal votes cast at the election thereon  
40 shall take effect on the date that the declaration of the results showing approval by the voters has  
41 been made by the governing body and entered in the minutes of the governing body. One copy  
42 of the amendment or amendments, together with a certified copy of the declaration of results

43 attached thereto, shall be certified forthwith by the recorder of the city to the Clerk of the House  
44 of Delegates, as keeper of the rolls, and another to the clerk of the county ~~court~~ commission for  
45 recording in the office of such clerk of the county ~~court~~ commission. The same shall be preserved  
46 by said Clerk of the House of Delegates as an authentic public record. After the effective date of  
47 an amendment or amendments so filed, all courts shall take judicial notice of such amendment or  
48 amendments. If a majority of the legal votes cast at the election thereon be against any proposed  
49 amendment, the same shall not be proposed again under the provisions of this section for at least  
50 one year.

51 The method of charter amendment provided for in this section is not in lieu of but is in  
52 addition to the other methods prescribed in this chapter

### PART III. ELECTIONS; EXPENSES.

#### **§8-4-10. Conduct of elections; general provisions concerning canvass and declaration of results; election supplies; election officials.**

1 The governing body of a city shall canvass the returns within relatively the same time with  
2 reference to an election held under the provisions of this article and in the same manner as county  
3 ~~court~~ commissions are required to do with respect to general elections, and shall declare the  
4 results of any such election. This requirement shall apply to any election held under the provisions  
5 of this article, whether it be a special municipal election or voting conducted in conjunction with a  
6 general election or a regular municipal election. The canvass and declaration of results shall be  
7 entered in the minutes of the governing body on the date made. Unless otherwise provided by  
8 charter provision, any such special municipal election or voting conducted in conjunction with a  
9 general election or a regular municipal election shall be held and conducted under the supervision  
10 at each precinct of three commissioners of election and two clerks who shall be appointed by the  
11 governing body and shall be conducted as nearly as may be in accordance with the laws of this  
12 state governing general elections, subject, however, in the case of a special municipal election to  
13 the provisions of §8-4-11 of this code. For any special municipal election or voting conducted in

14 conjunction with a general election or a regular municipal election, in accordance with the  
15 provisions of this article, the governing body shall arrange for and provide at its expense  
16 registration books, challenges and other election supplies as provided by law in general elections,  
17 and polling places in any such special municipal election or with respect to any such voting  
18 conducted in conjunction with a regular municipal election. In the event any commissioner or clerk  
19 appointed by the governing body shall fail or refuse to serve, such vacancy may be filled in like  
20 manner as such vacancies are filled in general elections under the laws of this state governing  
21 general elections, except that the governing body shall act in the place and stead of the county  
22 ~~court~~ commission. A recount may be had, as in general elections, upon the party or parties  
23 desiring such recount providing adequate assurance to the governing body that ~~he or they~~ the  
24 party or parties will pay all costs of such recount.

**§8-5-5. Regular election of officers; establishment of longer terms.**

1 (a) After the first election of officers of a city, town or village, the regular election of officers  
2 shall be held on the second Tuesday in June of the appropriate year, unless otherwise provided  
3 in the charter of the city or the special legislative charters of the towns or villages.

4 (b) A municipal election date established by a charter provision may fall on the same day  
5 as the county-state primary election or general election only when the voting precinct boundaries  
6 in the municipality coincide with the voting precinct boundaries established by the county  
7 commission or when the charter provides for separate registration books. If a municipal election  
8 falls on the same day as the county-state primary or general election, the municipality and county  
9 may agree to use the county election officials in the municipal elections, if practicable, or the  
10 municipality may provide for separate election officials.

11 (c) A municipal election date established by charter provision may fall within 25 days of a  
12 county-state primary or general election only where separate registration books are provided and  
13 maintained for the municipal election.

14 (d) Any municipality which establishes its election date by charter provision must comply  
15 with the provisions of this section or the election date shall be the second Tuesday of June. The  
16 language of this section may not be construed to prevent any city, town or village from amending  
17 the provisions of its charter or special legislative charter, to provide that its municipal election be  
18 held on some day other than the second Tuesday in June.

19 (e) Officers of a city may be elected for a four-year term at the same election at which a  
20 proposed charter, proposed charter revision or charter amendment providing for four-year terms  
21 is voted upon. The ballots or ballot labels used for the election of officers must indicate that the  
22 officers will be elected for four-year terms if the proposed charter, revision or amendment is  
23 approved. Officers of a town or village may be elected for a four-year term upon approval by a  
24 majority of the legal votes cast at a regular municipal election of a proposition calling for four-year  
25 terms. The ballots or ballot labels used for the election of officers must indicate that the officers  
26 will be elected for four-year terms if the proposition is approved.

27 (f) Municipalities are authorized to stagger and/or change the terms of elected municipal  
28 officers. Prior to any changes being made to the terms of elected municipal officers, the procedure  
29 to stagger and/or change the terms shall be set by ordinance and must be approved by a majority  
30 of the voters.

31 (g) Beginning on July 1, 2022, any municipality in the state that does not have a charter  
32 may pass an ordinance that establishes a new municipal election day upon agreement with its  
33 county commission to hold any local elections, including the regular election of local officers,  
34 municipal bond elections, and municipal levy elections, on the same day as the county-state  
35 primary or general election. The municipality shall publish notice of the public meeting during  
36 which the proposed ordinance will be considered by the municipal governing body via Class II-0  
37 legal advertisement in a publication area sufficient to reach a majority of the municipal residents,  
38 which notice shall include the public meeting date, time, and location, any proposed extension or

39 reduction of terms of office pursuant to paragraph (f) of this section, and the proposed election  
40 day change.

41 (f) The ordinance proposed under paragraph (g) of this section may call for an extension  
42 or reduction of the terms of office for the purpose of aligning the terms to coincide with the same  
43 day as the proposed county-state primary or general election day, which question shall be  
44 resolved by majority vote of the participating voters in the county: *Provided*, That the governing  
45 body shall not propose an extension of the terms of those offices by more than 18 months:  
46 *Provided, however*, That nothing in this section modifies a municipality's authority to reduce  
47 current elected officials' terms of office in any other manner provided by law.

48 (g) A municipality which enters into an agreement with the county commission to hold local  
49 elections at the same time as the county-state primary or general election day under this section  
50 is not required, but may agree, to share in the administrative costs of holding the election, but  
51 which costs shall not exceed the municipality's pro rata share of voters registered in the  
52 municipality compared with the total voters registered in the county.

## **CHAPTER 8A. LAND USE PLANNING.**

### **ARTICLE 7. ZONING ORDINANCE.**

#### **§8A-7-7. Election on a zoning ordinance.**

1 (a) The governing body of a municipality or a county may submit a proposed zoning  
2 ordinance for approval or rejection at any primary election, or general election or special election,  
3 to the qualified voters residing:

4 (1) Within the entire jurisdiction of the governing body, if the proposed zoning ordinance  
5 is for the entire jurisdiction; or

6 (2) In the specific area to be zoned by the proposed zoning ordinance, if the proposed  
7 zoning ordinance only applies to part of the governing body's jurisdiction.

8 (b) The election laws of this state apply to any election on a proposed zoning ordinance.

9 (c) If a petition for an election on a zoning ordinance is filed with the clerk of a governing  
10 body within 90 days after the enactment of a zoning ordinance by a governing body without an  
11 election, then a zoning ordinance does not take effect until an election is held and a majority of  
12 the voters approves it. At least ten percent of the total eligible voters in the area to be affected by  
13 the proposed zoning ordinance must sign, in their own handwriting, the petition for an election on  
14 a zoning ordinance.

15 (d) Notice for an election on a proposed zoning ordinance must be published in a local  
16 newspaper of general circulation in the area affected by the proposed zoning ordinance, as a  
17 Class II-0 legal advertisement, in accordance with the provisions of §59-3-1 of this code.

18 (e) The ballots for an election on a zoning ordinance shall have the following:

19 // For Zoning

20 // Against Zoning

21 (f) The zoning ordinance is adopted if it is approved by a majority of the voters and is  
22 effective on the date the results of an election are declared. If a zoning ordinance is rejected, the  
23 zoning ordinance does not take effect. The governing body may submit the zoning ordinance to  
24 the voters again at the next primary or general election.

**§8A-7-8a. Requirements for adopting an amendment to the zoning ordinance.**

1 (a) After the enactment of the zoning ordinance, the governing body of the municipality  
2 may amend the zoning ordinance in accordance with §8A-7-8 of this code, without holding an  
3 election.

4 (b) After the enactment of the zoning ordinance, the governing body of the county may  
5 amend the zoning ordinance in accordance with §8A-7-8 of this code, as follows:

6 (1) Without holding an election;

7 (2) Holding an election on the proposed amendment; or

8 (3) Holding an election on the proposed amendment pursuant to a petition.

9 (c) If the governing body of the county chooses to hold an election on the proposed  
10 amendment, then it must:

11 (1) Publish notice of the election and the proposed amendment to the zoning ordinance in  
12 a local newspaper of general circulation in the area affected by the zoning ordinance, as a Class  
13 II-0 legal advertisement, in accordance with the provisions of §59-3-1 *et seq.* of this code; and

14 (2) Hold an election on the question of adopting or rejecting the proposed amendment to  
15 the zoning ordinance at any primary, or general ~~or special~~ election for the qualified voters residing  
16 in:

17 (A) The entire jurisdiction of the county, if the zoning ordinance applies to the entire county;  
18 or

19 (B) The specific area to which the zoning ordinance applies, if the zoning ordinance only  
20 applies to a part of the county.

21 (d) The governing body of a county must hold an election on an amendment to a zoning  
22 ordinance if a petition, signed by at least ten percent of the eligible voters in the area to which the  
23 zoning ordinance applies, is filed:

24 (1) With the governing body of the county prior to enactment of an amendment to a zoning  
25 ordinance; or

26 (2) After the enactment of an amendment to a zoning ordinance without an election, if the  
27 petition for an election on the amendment to a zoning ordinance is filed with the governing body  
28 of the county within 90 days.

29 (e) The governing body of the county holding an election on the proposed amendment  
30 pursuant to a petition must:

31 (1) Publish notice of the election and the proposed amendment to the zoning ordinance in  
32 a local newspaper of general circulation in the area affected by the zoning ordinance, as a Class  
33 II-0 legal advertisement, in accordance with the provisions of §59-3-1 *et seq.* of this code; and

34 (2) Hold an election on the question of adopting or rejecting the proposed amendment to  
35 the zoning ordinance at any primary, or general ~~or special~~ election for the qualified voters residing  
36 in:

37 (A) The entire jurisdiction of the county, if the zoning ordinance applies to the entire county;

38 or

39 (B) The specific area to which the zoning ordinance applies, if the zoning ordinance only  
40 applies to a part of the county.

41 (f) If an election is held, then the proposed amendment to the zoning ordinance does not  
42 take effect until a majority of the voters approve it.

43 (g) If an election is held and the proposed amendment to the zoning ordinance is rejected,  
44 then the proposed amendment does not take effect. The governing body of the county may  
45 resubmit the proposed amendment to the zoning ordinance to the voters at another election.

46 (h) ~~A special election may be held upon written request to the governing body of the~~  
47 ~~county.~~

48 (i) The election laws of this state apply to any election on a proposed amendment to a  
49 zoning ordinance.

**§8A-7-13. Process to replace nontraditional zoning ordinance.**

1 (a) A governing body that has adopted or enacted a nontraditional zoning ordinance may  
2 replace the nontraditional zoning ordinance with a zoning ordinance. A nontraditional zoning  
3 ordinance may be replaced with a zoning ordinance by:

4 (1) The governing body; or

5 (2) A petition by the voters in the affected area. If the voters petition to replace the  
6 nontraditional zoning ordinance with a zoning ordinance, then the provisions of this section and  
7 this chapter shall be followed.

8 (b) At least 10 percent of the total eligible voters in the affected area may petition the  
9 governing body to replace the nontraditional zoning ordinance with a zoning ordinance. The  
10 petition must include:

11 (1) The governing body's name to which the petition is addressed;

12 (2) The reason for the petition, including:

13 (A) Replacing the nontraditional zoning ordinance with a zoning ordinance; and

14 (B) That the question of replacing the nontraditional zoning ordinance with a new zoning  
15 ordinance be put to the voters of the affected area; and

16 (3) Signatures in ink or permanent marker.

17 (c) Each person signing the petition must be a registered voter in the affected area and in  
18 the governing body's jurisdiction. The petition must be delivered to the clerk of the affected  
19 governing body. There are no time constraints on the petition.

20 (d) Upon receipt of the petition with the required number of qualifying signatures, the  
21 governing body shall place the question on the next ~~special~~, primary or general election ballot.

22 Notice for an election on replacing a zoning ordinance must be published in a local  
23 newspaper of general circulation in the area affected by the nontraditional zoning ordinance, as  
24 a Class II-0 legal advertisement, in accordance with the provisions of §59-3-1 *et seq.* of this code.

25 (e) The ballots for an election on replacing a zoning ordinance shall have the following:

26 "Shall \_\_\_\_\_ (name of governing body) replace \_\_\_\_\_ (name of commonly  
27 known nontraditional zoning ordinance) with a zoning ordinance?

28 \_\_\_\_\_ Yes \_\_\_\_\_ No"

29 (f) Upon a majority vote of the voters voting in favor of replacing a nontraditional zoning  
30 ordinance with a zoning ordinance, the governing body shall immediately begin the process of  
31 adopting and enacting a zoning ordinance, in accordance with the provisions of this chapter of  
32 this code. The governing body has a maximum of three years from the date of the election to  
33 adopt a zoning ordinance.

34 (g) The governing body may amend its nontraditional zoning ordinance during the process  
35 of adopting and enacting a zoning ordinance.

36 (h) If a majority of the voters reject replacing the nontraditional zoning ordinance with a  
37 zoning ordinance, the affected voters may not petition for a vote on the issue for at least two years  
38 from the date of the election.

39 (i) Nothing in this section shall prevent a governing body from amending its zoning  
40 ordinance in accordance with this chapter.

41 (j) If a governing body of a county chooses to replace a nontraditional zoning ordinance  
42 with a traditional zoning ordinance without holding an election, a petition, signed by at least ten  
43 percent of the eligible voters who reside in the area affected by the zoning ordinance, for an  
44 election on the question of adopting a traditional zoning ordinance may be filed with the governing  
45 body of the county within 90 days after the enactment of the traditional zoning ordinance by the  
46 governing body of the county. If a petition is timely filed, then the traditional zoning ordinance  
47 does not take effect until:

48 (1) Notice of the election and the zoning ordinance is published in a local newspaper of  
49 general circulation in the area affected by the zoning ordinance, as a Class II-0 legal  
50 advertisement, in accordance with the provisions of §59-3-1 *et seq.* of this code;

51 (2) An election is held; and

52 (3) A majority of the voters approve it.

## **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 regularly scheduled primary, or general, ~~or special~~  
15 election in accordance with the requirements of §3-1-31 of this code. If at least 60 percent of the  
16 voters cast their ballots in favor of the additional levy, the county commission or municipality may  
17 impose the additional levy. If at least a majority of voters cast their ballot in favor of the additional  
18 levy, the county board of education may impose the additional levy: *Provided*, That any additional  
19 levy adopted by the voters, including any additional levy adopted prior to the effective date of this  
20 section, shall be the actual number of cents per each \$100 of value set forth in the ballot provision,  
21 which number shall not exceed the maximum amounts prescribed in this section, regardless of  
22 the rate of regular levy then or currently in effect, unless such rate of additional special levy is  
23 reduced in accordance with the provisions of §11-8-6g of this code or otherwise changed in  
24 accordance with the applicable ballot provisions. For county commissions, this levy shall not  
25 exceed a rate greater than seven and fifteen hundredths cents for each \$100 of value for Class I  
26 properties, and for Class II properties a rate greater than twice the rate for Class I properties, and  
27 for Class III and IV properties a rate greater than twice the rate for Class II properties. For  
28 municipalities, this levy shall not exceed a rate greater than six and twenty-five hundredths cents

29 for each \$100 of value for Class I properties, and for Class II properties a rate greater than twice  
30 the rate for Class I properties, and for Class III and IV properties a rate greater than twice the rate  
31 for Class II properties. For county boards of education, this levy shall not exceed a rate greater  
32 than twenty-two and ninety-five hundredths cents for each \$100 of value for Class I properties,  
33 and for Class II properties a rate greater than twice the rate for Class I properties, and for Class  
34 III and IV properties a rate greater than twice the rate for 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 §13-1-3 and §13-1-4 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, 2022, and which will not be up for renewal at the  
8 next regularly scheduled primary or general election thereafter, the local levying body shall by  
9 ordinance choose to hold the election to renew that levy either at the next regularly scheduled  
10 primary or general election in accordance with §3-1-31 of this code: *Provided, however, That*

11 notwithstanding any other provision of this code, a local levying body may enter an order  
12 authorizing a special election prior to the expiration of the existing or expiring levy for the purpose  
13 of presenting to the voters the question of synchronizing the renewal of an existing or expiring  
14 levy with a future regularly scheduled primary or general election, which question shall pass upon  
15 adoption by a majority of participating voters. ~~except as follows: (1) Where a special election is~~  
16 ~~held, the local levying body, having due regard to the minimum expense involved, shall determine~~  
17 ~~the number of election officials necessary to properly conduct said election, which number shall~~  
18 ~~in no case be less than three commissioners and two clerks, and shall appoint the same and fix~~  
19 ~~and pay their compensation, but otherwise the election officials shall be such as are appointed to~~  
20 ~~serve with respect to the general election held at the same time~~

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

24 ~~(c) A separate ballot shall be used at a levy election held in connection with any other~~  
25 ~~election~~ The question on the special levy shall be placed on the ballot in accordance with the  
26 ballot placement order prescribed by §3-5-13a(a) of this code. ~~The ballot question heading shall~~  
27 ~~be entitled: “Special Levy Election” and the question shall be significantly in the following form:~~  
28 “Special election to authorize additional levies for the year(s) \_\_\_\_\_ and for the purpose  
29 of \_\_\_\_\_ according to the order of the \_\_\_\_\_ entered on the \_\_\_\_\_  
30 day of \_\_\_\_\_.”

31 The additional levy shall be on Class I property \_\_\_\_\_ cents; on Class II property  
32 \_\_\_\_\_ cents; on Class III property (if any) \_\_\_\_\_ cents; on Class IV  
33 property (if any) \_\_\_\_\_ cents.

## **CHAPTER 13. PUBLIC BONDED INDEBTEDNESS.**

### **ARTICLE 1. BOND ISSUES FOR ORIGINAL INDEBTEDNESS.**

**§13-1-7. When election to be held.**

1           Elections for the purpose of voting upon questions of issuing bonds may be held at any  
2 general, ~~or~~ primary, ~~or special~~ election which the fiscal body in its order submitting the same to a  
3 vote may designate, except that, when a petition is filed asking that bonds be issued, the fiscal  
4 body with which the same is filed, ~~if it be not designated in the petition that~~ shall order a special  
5 election and the election shall be held concurrently at a the next regularly scheduled general or  
6 primary election, ~~shall order a special election to be held within sixty days from the date of the~~  
7 ~~filing of such petition; or, if it be a petition for bonds for the construction of county district roads or~~  
8 ~~bridges thereon, the election shall be held within sixty days from the filing of the engineer's report~~  
9 ~~as provided for in section five of this article.~~

**§13-1-11. General election laws to apply; recorders and secretaries to act in lieu of circuit clerks.**

1           All the provisions of the general election laws of this state concerning general, ~~or~~ primary,  
2 ~~or special~~ elections, when not in conflict with the provisions of this article, shall apply to bond  
3 elections hereunder, insofar as practicable: *Provided*, That in bond elections for municipalities,  
4 school or independent school districts, the recorders and secretaries, respectively, shall procure  
5 and furnish to the election commissioners at each voting precinct the ballots, pollbooks, tally  
6 sheets and other things necessary for conducting the election, and perform all duties imposed by  
7 law upon clerks of the circuit courts in relation to general elections.

**CHAPTER 15. PUBLIC SAFETY.**

**ARTICLE 2. WEST VIRGINIA STATE POLICE.**

**§15-2-13. Limitations upon members; exceptions.**

1           (a) No member of the West Virginia state police may in any way interfere with the rights  
2 or property of any person except for the prevention of crime.

3 (b) No member of the West Virginia state police may in any way become active or take  
4 part in any political contest or at any time participate in any political party caucus, committee,  
5 ~~primary~~, assembly or convention or in any primary, general, or special election while in uniform,  
6 except to cast his or her ballot.

7 (c) No member of the West Virginia state police may be detailed or ordered to duty at or  
8 near any voting precinct where any election or convention is held on the day of an election or  
9 convention; nor may any member thereof remain in, about or near the voting precinct or place of  
10 convention, except to cast his or her vote. After voting he or she shall forthwith retire from the  
11 voting precinct. No member may act as an election official. If any member of the West Virginia  
12 state police is found guilty of violating any of the provisions of this section, he or she shall be  
13 dismissed by the superintendent as hereinafter provided.

14 (d) While out of uniform and off duty, no member of the West Virginia state police may  
15 participate in any political activity except to:

16 (1) Campaign for and hold office in political clubs and organizations;

17 (2) Actively campaign for candidates for public office in partisan and nonpartisan elections;

18 and

19 (3) Contribute money to political organizations and attend political fund-raising functions.

20 (e) No member of the West Virginia state police may at any time:

21 (1) Be a candidate for public office in a nonpartisan or partisan election;

22 (2) Use official authority or influence to interfere with or affect the results of an election or  
23 nomination; or

24 (3) Directly or indirectly coerce contributions from subordinates in support of a political  
25 party or candidate.

26 (f) No officer or member of the West Virginia state police may, in any labor trouble or  
27 dispute between employer and employee, aid or assist either party thereto, but shall in these  
28 cases see that the statutes and laws of this state are enforced in a legal way and manner.

## CHAPTER 16. PUBLIC HEALTH.

### ARTICLE 12. SANITARY DISTRICTS FOR SEWAGE DISPOSAL.

#### §16-12-1. Incorporation as sanitary district for sewage disposal; petition, notice and hearing; election; form of ballot; expenses of election.

1           That whenever any area of contiguous territory shall contain one or more incorporated  
2 cities, towns and/or villages, and shall be so situated that the construction and maintenance of a  
3 plant or plants for the purification and treatment of sewage and the maintenance of one or more  
4 outlets for the drainage thereof, after having been so treated and purified by and through such  
5 plant or plants will conduce to the preservation of the public health, comfort and convenience, the  
6 same may be incorporated as a sanitary district under this article in the manner following, to wit:

7           Any 400 legal voters, residents within the limits of such proposed sanitary district, may  
8 petition the county ~~court~~ commission of the county in which the proposed sanitary district, or the  
9 major portion thereof, is located, to cause the question to be submitted to the legal voters of such  
10 proposed sanitary district, whether such proposed territory shall be organized as a sanitary district  
11 under this article; such petition shall be addressed to the county ~~court~~ commission and shall  
12 contain a definite description of the boundaries of the territory to be embraced in the such sanitary  
13 district, and the name of such proposed sanitary district: *Provided, however,* That no territory shall  
14 be included within more than one sanitary district organized under this article.

15           Notice shall be given by such county ~~court~~ commission within ten days after receiving the  
16 petition, of the time and place when a hearing on the petition for a sanitary district will be held, by  
17 publication of such notice as a Class II legal advertisement in compliance with the provisions of  
18 §59-3-1 *et seq.* of this code, and the publication area for such publication shall be the area of the  
19 sanitary district. The first publication shall be made at least 20 days prior to such hearing. The  
20 hearing on the petition for a sanitary district shall be held not later than 30 days after the county  
21 ~~court~~ commission receives the said petition. At such hearing the president of the county ~~court~~

22 commission shall preside, and all persons resident within the limits of such proposed sanitary  
23 district shall have an opportunity to be heard upon the question of the location and boundary of  
24 such proposed sanitary district, and to make suggestions regarding the same, and the said county  
25 ~~court~~ commission, after hearing statements, evidence and suggestions, shall fix and determine  
26 the limits and boundaries of such proposed sanitary district as stated in the original petition unless  
27 by a vote of the majority of the legal voters resident within the limits of such proposed sanitary  
28 district, present at the said hearing, it should be decided to alter and amend such petition to  
29 change and redetermine the limits and boundaries of such proposed sanitary district.

30 After such determination by the county ~~court~~ commission, the same shall be incorporated  
31 in an order which shall be spread at length upon the records of the county ~~court~~ commission.  
32 Upon the entering of such order, the county ~~court~~ commission shall submit to the legal voters of  
33 the proposed sanitary district, the question of organization and establishment of the proposed  
34 sanitary district as determined by said county ~~court~~ commission, at a ~~special~~ an election, to be  
35 held ~~within sixty days after the entering of such order~~ concurrently with the next regularly  
36 scheduled primary or general election, notice whereof shall be given by the county ~~court~~  
37 commission—at least 20 days prior thereto by publication of such notice as a Class II-O legal  
38 advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, and the  
39 publication area for such publication shall be the area of the proposed sanitary district. Such  
40 notice shall specify briefly the purpose of such election, with the description of such proposed  
41 sanitary district, and the time and place for holding such election.

42 Each legal voter resident within such proposed sanitary district shall have the right to cast  
43 a ballot at such election. Ballots at elections held under this section shall be in substantially the  
44 following form, to wit:

45 // For sanitary district.

46 // Against sanitary district.

47           The ballots so cast shall be issued, received, returned and canvassed in the same manner  
48 and by the same officers as is provided by law in the case of ballots cast for county officers, except  
49 as herein modified. The county ~~court~~ commission shall cause a statement of the result of such  
50 election to be spread on the records of the county ~~court~~ commission. If a majority of the votes  
51 cast upon the question of the incorporation of the proposed sanitary district shall be in favor of  
52 the proposed sanitary district, such proposed sanitary district shall thenceforth be deemed an  
53 organized sanitary district under this article. All courts in this state shall take judicial notice of the  
54 existence of all sanitary districts organized under this article.

55           The expenses of holding said special election shall be paid by the county ~~court~~  
56 commission of said county, in which said proposed sanitary district, or the major portion thereof,  
57 is located, out of the General Funds of said county: *Provided, however,* That in the event such  
58 sanitary district is established and incorporated under this article, then said sanitary district shall  
59 repay to said county the expenses incurred in holding said special election within two years from  
60 the date of incorporating said sanitary district.

## **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 40 percent of the registered voters in any district or independent  
8 school district, as shown by the last registration of voters therein, addressed to the Board of

9 Education of such district or independent school district, requesting the submission of the school  
10 levy to the voters of such district, the Board of Education of such district or independent district  
11 shall submit the question of authorizing a levy for school purposes to the voters of such district at  
12 the regularly scheduled primary or general election held next after such petition is presented; and  
13 the board of ballot commissioners of the county of which such district constitutes a part shall  
14 prepare or cause to be prepared separate ballots from the official ballot to be voted at said  
15 election, which separate ballot 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~~ commission in the same manner, so far as applicable, as they  
22 are required to conduct and certify the result of the ~~general~~ election; and such commissioners  
23 shall promptly certify the result of the election on the question of the school levy to the Board of  
24 Education of the district or independent school district within which the election was held, and  
25 such certificate shall be entered by the secretary as part of the minutes and records of such Board  
26 of Education. If a majority of the ballots cast at said ~~general~~ election in any district or independent  
27 school district on the question of such school levy be in favor of the levy, the Board of Education  
28 of such district or independent school district shall annually thereafter levy a tax on all the taxable  
29 property in its district, for the support and maintenance of the schools in the district, until such  
30 time as an election may again be held on the question of such school levy in the manner  
31 hereinbefore provided.

32           ~~In the event that a majority of the votes cast in any school district or independent school~~  
33 ~~district upon the question of the school levy submitted at any general election be against the levy,~~  
34 ~~the board of Education of such district or independent school district shall have authority to call a~~

35 ~~special election for the purpose of resubmitting the question of authorizing such school levy to the~~  
36 ~~voters of such district or independent district. Such special election shall be held in accordance~~  
37 ~~with the provisions of the next succeeding section of this article, so far as applicable, and the~~  
38 ~~ballots shall be similar to those heretofore described in this section. If a majority of the ballots cast~~  
39 ~~at such special election in any school district or independent school district be in favor of the~~  
40 ~~school levy, the board of Education of such district or independent school district shall annually~~  
41 ~~thereafter levy a tax for the support of the free schools in its district or independent school district,~~  
42 ~~in the manner provided by law for school levies, until such time as the question of school levy~~  
43 ~~may again be submitted at a general election upon a petition signed by not less than forty percent~~  
44 ~~of the registered voters of the district or independent district, as hereinbefore provided, and a~~  
45 ~~majority of the votes cast at such election be against the levy. If a majority of the votes cast at any~~  
46 ~~such special election be against the school levy the board of Education of any such district or~~  
47 ~~independent district shall again submit the question of a school levy to the voters of its district or~~  
48 ~~independent district at the next general election: *Provided, however,* That upon petition of not less~~  
49 ~~than forty percent of the qualified voters of the district, as determined from the last registration of~~  
50 ~~voters, such Board of Education may again submit the question of school levy at a special election~~  
51 ~~to be held for that purpose, in the manner hereinbefore provided, prior to the next succeeding~~  
52 ~~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 shall~~ 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, 2022, 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 ~~sections nine~~  
28 ~~and thirteen, article eight, chapter eleven~~ §11-8-9 and §11-8-13 of this code, upon the property in  
29 former magisterial districts and independent districts for the payment of current requirements of  
30 principal and interest of bonded indebtedness incurred prior to the creation of the county school  
31 districts.

## **CHAPTER 20. NATURAL RESOURCES.**

### **ARTICLE 5K. COMMERCIAL INFECTIOUS MEDICAL WASTE FACILITY SITING APPROVAL.**

#### **§20-5K-3. Procedure for public participation.**

1 (a) From and after the effective date of this article, in order to obtain approval to locate a  
2 commercial infectious medical waste facility, currently not under permit to operate, an applicant  
3 shall:

4 (1) File a presiting notice with the county commission and local solid waste authority of the  
5 county or counties in which the facility is to be located or proposed. Such notice shall be submitted  
6 on forms prescribed by the secretary;

7 (2) File a presiting notice with the secretary; and

8 (3) File a presiting notice with the Division of Environmental Protection.

9 (b) If a presiting notice is filed in accordance with subsection (a) of this section, the county  
10 commission shall publish a Class II legal advertisement in compliance with the provisions of §59-  
11 3-1 *et seq.* of this code, in a newspaper of general circulation in the counties wherein the  
12 commercial infectious medical waste facility is to be located. Upon an affirmative vote of the  
13 majority of the county commissioners or upon the written petition of registered voters residing in  
14 the county equal to not less than 15 percent of the number of votes cast within the county for  
15 Governor at the preceding gubernatorial election, which petition shall be filed with the county  
16 commission within 60 days after the last date of publication of the notice provided in this section,  
17 the county commission shall, upon verification of the required number of signatures on the  
18 petition, and not less than 56 days before the election, order a referendum be placed upon the  
19 ballot. Any referendum conducted pursuant to this section shall be held at the next primary, ~~or~~  
20 general ~~or other county-wide~~ election:

21 (1) Such referendum is to determine whether it is the will of the voters of the county that a  
22 commercial infectious medical waste management facility be located in the county. Any election  
23 at which such question of locating a commercial infectious medical waste management facility is  
24 voted upon shall be held at the voting precincts established for holding primary or general  
25 elections. All of the provisions of the general election laws, when not in conflict with the provisions  
26 of this article, apply to voting and elections hereunder, insofar as practicable. The Secretary of

27 State shall prescribe the form of the petition which shall include the printed name, address and  
28 date of birth of each person whose signature appears on the petition.

29 (2) The ballot, or the ballot labels where voting machines are used, shall have printed  
30 thereon substantially the following depending upon the type of facility to be located within the  
31 county:

32 Shall a commercial infectious medical waste management facility be located within  
33 \_\_\_\_\_ County.

34  For the facility

35  Against the facility

36 (Place a cross mark in the square opposite your choice.)

37 (3) If a majority of the legal votes cast upon the question is against the facility, then the  
38 county commission shall notify the local solid waste authority, the Division of Environmental  
39 Protection and the secretary of the Department of Health and Human Resources of the result and  
40 the commercial infectious medical waste management facility may not proceed any further with  
41 the application. If a majority of the legal votes cast upon the question is for the facility, then the  
42 application process as set forth in §20-5j-1 *et seq.* of this code may proceed: *Provided*, That such  
43 vote is not binding on nor does it require the secretary to issue the permit. If the majority of the  
44 legal votes cast is against the question, the question may be submitted to a vote at any  
45 subsequent election in the manner herein specified: *Provided, however*, That the question may  
46 not be resubmitted to a vote until two years after the date of the previous referendum.

## **CHAPTER 22. ENVIRONMENTAL RESOURCES.**

### **ARTICLE 15A. THE A. JAMES MANCHIN REHABILITATION ENVIRONMENTAL ACTION PLAN.**

**§22-15A-18. Establishment of county recycling programs for solid waste; petition for  
referendum; ballot contents; election procedure; effect of such election.**

1           (a) On or before October 18, 1992, each municipality described in subsection (b) of this  
2 section shall submit a proposal to the Solid Waste Management Board, consistent with the  
3 provisions of this section, describing the establishment and implementation of the mandatory  
4 recycling program. The Solid Waste Management Board shall review the submitted plans for  
5 consistency with the criteria provided in this section, the county or regional solid waste  
6 management plan and the statewide management plan. The Solid Waste Management Board  
7 may make suggested changes to the plan and shall provide technical assistance to the  
8 municipalities in the development of the plans.

9           (b) On or before October 18, 1993, each municipality with a population of 10,000 or more  
10 people, as determined by the most recent decennial census by the Bureau of the Census of the  
11 United States Department of Commerce, shall establish and commence implementation of a  
12 source separation and curbside collection program for recyclable materials. Implementation shall  
13 be phased in by July 1, 1995. Such program shall include, at a minimum, the following:

14           (1) An ordinance adopted by the governing body of the municipality requiring that each  
15 person, partnership, corporation or other entity in the municipality shall separate at least three  
16 recyclable materials, as deemed appropriate by the municipality, from other solid waste: *Provided*,  
17 That the list of recyclables to be separated may be adjusted according to whether the generator  
18 is residential, commercial or other type of establishment.

19           (2) A scheduled day, at least one per month, during which separated materials are to be  
20 placed at the curbside, or similar location, for collection.

21           (3) A system that collects recyclable materials from the curbside, or similar location, at  
22 least once per month: *Provided*, That to encourage full participation, the program shall, to the  
23 maximum extent possible, provide for the collection of recyclables at the same rate of frequency,  
24 and simultaneous with, the regular collection of solid waste.

25           (4) Provisions to ensure compliance with the ordinance, including incentives and penalties.

26 (5) A comprehensive public information and education program covering the importance  
27 and benefits of recycling, as well as the specific features and requirements of the recycling  
28 program. As part of the education program, each municipality shall, at a minimum, notify all  
29 persons occupying residential, commercial, institutional or other premises within its boundaries of  
30 the requirements of the program, including how the system will operate, the dates of collection,  
31 the responsibilities of persons within the municipality and incentives and penalties.

32 (6) Consultation with the county or regional solid waste authority in which the municipality  
33 is located to avoid duplication, ensure coordination of solid waste programs and maximize the  
34 market for recyclables.

35 (c) Notwithstanding the provisions of subsection (b) of this section, a comprehensive  
36 recycling program for solid waste may be established in any county of this state by action of a  
37 county commission in accordance with the provisions of this section. Such program shall require:

38 (1) That, prior to collection at its source, all solid waste shall be segregated into separate  
39 identifiable recyclable materials by each person, partnership, corporation and governmental  
40 agency subscribing to a solid waste collection service in the county or transporting solid waste to  
41 a commercial solid waste facility in the county;

42 (2) Each person engaged in the commercial collection, transportation, processing or  
43 disposal of solid waste within the county shall accept only solid waste from which recyclable  
44 materials in accordance with the county's comprehensive recycling program have been  
45 segregated; and

46 (3) That the provisions of the recycling plan prepared pursuant to §22-15A-17 section  
47 seventeen of this article shall, to the extent practicable, be incorporated in the county's  
48 comprehensive recycling program.

49 (d) For the purposes of this article, recyclable materials shall include, but not be limited to,  
50 steel and bimetallic cans, aluminum, glass, paper and such other solid waste materials as may

51 be specified by either the municipality or county commission with the advice of the county or  
52 regional solid waste authority.

53 (e) A comprehensive recycling program for solid waste may be established in any county  
54 of this state by: (1) A petition filed with the county commission bearing the signatures of registered  
55 voters of the county equal to not less than five percent of the number of votes cast within the  
56 county for Governor at the preceding gubernatorial election; and (2) approval by a majority of the  
57 voters in a subsequent referendum on the issue. A referendum to determine whether it is the will  
58 of the voters of a county that a comprehensive recycling program for solid waste be established  
59 in the county may be held at any regular primary or general election ~~or in conjunction with any~~  
60 ~~other countywide election.~~ Any election at which the question of establishing a policy of  
61 comprehensive recycling for solid waste is voted upon shall be held at the voting precincts  
62 established for holding primary or general elections. All of the provisions of the general election  
63 laws, when not in conflict with the provisions of this article, shall apply to voting and elections  
64 hereunder, insofar as practicable. The Secretary of State shall prescribe the form of the petition  
65 which shall include the printed name, address and date of birth of each person whose signature  
66 appears on the petition. Upon verification of the required number of signatures on the petition, the  
67 county commission shall, not less than 70 days before the election, order that the issue be placed  
68 on the ballot and referendum held at the next primary, or general ~~or special~~ election to determine  
69 whether it is the will of the voters of the county that a policy of comprehensive recycling of solid  
70 waste be established in the county: *Provided*, That the petition bearing the necessary signatures  
71 has been filed with the county commission at least 100 days prior to the election.

72 The ballot, or the ballot labels where voting machines are used, shall have printed thereon  
73 substantially the following:

74 "Shall the county commission be required to establish a comprehensive recycling program  
75 for solid waste in \_\_\_\_\_ County, West Virginia?

76 For Recycling

77           Against Recycling

78           (Place a cross mark in the square opposite your choice.)”

79           If a majority of legal votes cast upon the question be for the establishment of a policy of  
80 comprehensive recycling of solid waste, the county commission shall, after the certification of the  
81 results of the referendum, thereafter adopt an ordinance, within 180 days of certification,  
82 establishing a comprehensive recycling program for solid waste in the county: *Provided*, That  
83 such program shall be implemented and operational no later than 12 months following  
84 certification. If a majority of the legal votes cast upon the question be against the establishment  
85 of a policy of comprehensive recycling of solid waste, the policy shall not take effect, but the  
86 question may again be submitted to a vote at any subsequent election in the manner herein  
87 provided.

88           (f) A comprehensive recycling program for solid waste established by petition and  
89 referendum may be rescinded only pursuant to the procedures set out herein to establish the  
90 program.

91           To rescind the program, the ballot, or the ballot labels where voting machines are used,  
92 shall have printed thereon substantially the following:

93           “Shall the county commission be required to terminate the comprehensive recycling  
94 program for solid waste in \_\_\_\_\_ County, West Virginia?”

95           Continue Recycling

96           End Recycling

97           (Place a cross mark in the square opposite your choice.)”

98           (g) If a majority of legal votes cast upon the question be for the termination of a policy of  
99 comprehensive recycling of solid waste previously established in the county, the county  
100 commission shall, after the certification of the results of the referendum, thereafter rescind by  
101 ordinance the comprehensive recycling program for solid waste in the county within 90 days of  
102 certification. If a majority of the legal votes cast upon the question be for the continuation of the

103 policy of comprehensive recycling of solid waste, the ordinance shall not be rescinded, but the  
104 question may again be submitted to a vote at any subsequent election in the manner herein  
105 provided.

106 (h) In the case of any municipality having a population greater than 30,000 persons, as  
107 indicated by the most recent decennial census conducted by the United States, the governing  
108 body of such municipality may by ordinance establish a materials recovery facility in lieu of or in  
109 addition to the mandatory recycling program required under the provisions of this section:  
110 *Provided*, That a materials recovery facility shall be subject to approval by both the Public Service  
111 Commission and the Solid Waste Management Board upon a finding by both the Public Service  
112 Commission and the Solid Waste Management Board that the establishment of a materials  
113 recovery facility will not hinder, and will be consistent with, the purposes of this article.

## **CHAPTER 22C. ENVIRONMENTAL RESOURCES; BOARDS, AUTHORITIES, COMMISSIONS AND COMPACTS.**

### **ARTICLE 4A. LOCAL PARTICIPATION; REFERENDUM.**

#### **§22C-4A-2. Approval of new Class A facility.**

1 (a) The purpose of the mandatory referendum for approval of new Class A facilities is to  
2 verify for the local community that the local infrastructure and environment are appropriate for a  
3 new Class A facility and to assure that the local community accepts the associated benefits and  
4 detriments of having a new Class A facility located in their county.

5 (b) Following receipt of a certificate of need from the Public Service Commission as  
6 required by §24-2-1c of this code, and local solid waste approval as required in §22C-4-6 of this  
7 code for a new Class A facility, the county commission shall cause a referendum to be placed on  
8 the ballot not less than 56 days before the next primary, or general ~~or other countywide~~ election:

9 (1) Such referendum is to determine whether it is the will of the voters of the county that a  
10 new Class A facility be constructed. Any election at which such question of locating a solid waste

11 facility is voted upon shall be held at the voting precincts established for holding primary or general  
12 elections. All of the provisions of the general election laws, when not in conflict with the provisions  
13 of this article, apply to voting and elections hereunder, insofar as practicable.

14 (2) The ballot, or the ballot labels where voting machines are used, shall have printed  
15 thereon substantially the following:

16 "The West Virginia Legislature has found that the location of a Class A solid waste facility  
17 has impact upon the county in which it will be located, and further that local citizens should be  
18 given the opportunity to participate in the decision of locating a new Class A facility in their  
19 community. A Class A facility is authorized to receive between ten and thirty thousand tons of  
20 solid waste per month.

21 The \_\_\_\_\_ county commission finds the following:

22 I. The \_\_\_\_\_ (name of applicant) has obtained site  
23 approval for a Class A commercial facility from the \_\_\_\_\_ (name of the county  
24 or regional solid waste authority). The authority has determined that the proposed landfill meets  
25 all local siting plan requirements. The local siting plan evaluates local environmental conditions  
26 and other factors and authorizes commercial landfills in areas of a county where a commercial  
27 landfill can be appropriately located.

28 II. The West Virginia Public Service Commission has issued a certificate of need, and has  
29 approved the operation of the Class A landfill. The Public Service Commission has determined  
30 that the landfill complies with the state solid waste management plan and based on the anticipated  
31 volume of garbage expected to be received at the landfill, that the proposal is consistent with  
32 public convenience and necessity.

33 Please vote whether to approve construction of the facility by responding to the following  
34 question:

35 Shall the \_\_\_\_\_ commercial solid waste facility located within \_\_\_\_\_  
36 County, be permitted to handle between ten and thirty thousand tons of solid waste per month?

37                     For the facility

38                     Against the facility

39                    (Place a cross mark in the square opposite your choice.)”

40                    (3) If a majority of the legal votes cast upon the question is against the facility, the Division  
41 of Environmental Protection shall not proceed any further with the application. If a majority of the  
42 legal votes cast upon the question be for the facility, then the application process as set forth in  
43 this article and §22-15-1 *et seq.* of this code may proceed: *Provided*, That such vote is not binding  
44 on nor does it require the Division of Environmental Protection to issue the permit. If the majority  
45 of the legal votes cast is against the question, the question may be submitted to a vote at any  
46 subsequent election in the manner herein specified: *Provided, however*, That the question may  
47 not be resubmitted to a vote until two years after the date of the previous referendum.

**§22C-4A-3. Referendum for approval of conversion of a Class B facility to a Class A facility.**

1                    (a) The purpose of the petition and referendum for approval of conversions of Class B  
2 facilities to Class A facilities is to allow the local community an opportunity to participate in the  
3 decision of whether the local infrastructure and environment are appropriate for expansion of a  
4 Class B facility to a Class A facility, and to assure that the local community accepts the associated  
5 benefits and detriments of having a Class A facility located in their county.

6                    (b) Within 21 following receipt of a certificate of need from the Public Service Commission  
7 as required by §24-2-1c of this code, and local solid waste authority approval as required in §22C-  
8 4-26 of this code, the county commission shall complete publication of a Class II legal  
9 advertisement in compliance with the provisions of §59-3-1 *et seq.* of this code, in the qualified  
10 newspaper of general circulation in the county wherein the solid waste facility is located.  
11 Registered voters residing in the county may petition the county commission to place the issue of  
12 whether a Class B facility be expanded to a Class A facility be placed on the ballot at the next  
13 primary, ~~or general or other countywide~~ election held not less than one hundred days after the  
14 deadline for filing the petition. The petition shall be in writing, in the form prescribed by the

15 Secretary of State, and shall include the printed name, residence address and date of birth of  
16 each person whose signature appears on the petition. The petition shall be filed with the county  
17 commission not less than 60 days after the last date of publication of the notice provided in this  
18 section. Upon receipt of completed petition forms, the county commission shall immediately  
19 forward those forms to the clerk of the county commission for verification of the signatures and  
20 the voter registration of the persons named on the petition. If a primary, or general ~~or other~~  
21 ~~countywide~~ election is scheduled not more than 120 days and not less than 100 days following  
22 the deadline for filing the petitions, the clerk of the county commission shall complete the  
23 verification of the signatures within 30 days and shall report the number of valid signatures to the  
24 county commission. In all other cases, the clerk of the county commission shall complete  
25 verification in a timely manner. Upon verification of the signatures of registered voters residing in  
26 the county equal to not less than 15 percent of the number of votes cast within the county for  
27 Governor at the preceding gubernatorial election, and not less than 70 days before the election,  
28 the county commission shall order a referendum be placed upon the ballot:

29 (1) Such referendum is to determine whether it is the will of the voters of the county that  
30 the Class B facility be converted to a Class A facility. Any election at which such question of  
31 locating a solid waste facility is voted upon shall be held at the voting precincts established for  
32 holding primary or general elections. All of the provisions of the general election laws, when not  
33 in conflict with the provisions of this article, apply to voting and elections hereunder, insofar as  
34 practicable. The Secretary of State shall prescribe the form of the petition which shall include the  
35 printed name, address and date of birth of each person whose signature appears on the petition.  
36 Should the petition fail to meet the requirements set forth above, the application process as set  
37 forth in this article and §22-15-1 *et seq.* of this code, may proceed.

38 (2) The ballot, or the ballot labels where voting machines are used, shall have printed  
39 thereon substantially the following:

40           “The West Virginia Legislature finds that expansion of a Class B solid waste facility to a  
41 Class A solid waste facility has impact to the county in which it will be located, and further that  
42 local citizens should be afforded the opportunity to participate in the decision of locating a Class  
43 A facility in their community. A Class A facility is authorized to receive between ten and thirty  
44 thousand tons of solid waste per month. Fifteen percent of the registered voters in  
45 \_\_\_\_\_ county have signed a petition to cause a referendum to determine the  
46 following question:

47           The \_\_\_\_\_ county commission finds the following:

48           I. The \_\_\_\_\_ (name of applicant) has obtained site approval for a Class  
49 A commercial facility from the \_\_\_\_\_ (name of the county or regional solid waste  
50 authority). The authority has determined that the proposed landfill meets all local siting plan  
51 requirements. The local siting plan evaluates local environmental conditions and other factors and  
52 authorizes commercial landfills where a commercial landfill can be appropriately located.

53           II. The West Virginia Public Service Commission has issued a certificate of need, and has  
54 approved the operation of the Class A landfill. The Public Service Commission has determined  
55 that the landfill complies with the state solid waste management plan and that based on the  
56 anticipated volume of garbage expected to be received at the landfill, that the proposal is  
57 consistent with public convenience and necessity.

58           Please vote whether to approve construction of the facility by responding to the following  
59 question:

60           Shall the \_\_\_\_\_ solid waste facility, located within  
61 \_\_\_\_\_ County, West Virginia, be permitted to handle between ten and  
62 thirty thousand tons of solid waste per month?

63            For conversion of the facility

64            Against conversion of the facility

65           (Place a cross mark in the square opposite your choice.)”

66 (3) If a majority of the legal votes cast upon the question is against the facility, then the  
67 Division of Environmental Protection shall not proceed any further with the application. If a  
68 majority of the legal votes cast upon the question be for the facility, then the application process  
69 as set forth in this article and §22-15-1 *et seq.* of this code may proceed: *Provided*, That such  
70 vote is not binding on nor does it require the Division of Environmental Protection to modify the  
71 permit. If the majority of the legal votes cast is against the question, the question may be submitted  
72 to a vote at any subsequent election in the manner herein specified: *Provided, however*, That the  
73 question may not be resubmitted to a vote until two years after the date of the previous  
74 referendum.

## **ARTICLE 6. HAZARDOUS WASTE FACILITY SITING APPROVAL.**

### **§22C-6-3. Procedure for public participation.**

1 (a) From and after June 5, 1992, in order to obtain approval to locate either a commercial  
2 hazardous waste management facility or a hazardous waste management facility which disposes  
3 of greater than 10,000 tons per annum on site in this state, an applicant shall:

4 (1) File a presiting notice with the county or counties in which the facility is to be located  
5 or proposed. Such notice shall be submitted on forms prescribed by the commercial hazardous  
6 waste management facility siting board;

7 (2) File a presiting notice with the commercial hazardous waste management facility siting  
8 board; and

9 (3) File a presiting notice with the Division of Environmental Protection.

10 (b) If a presiting notice is filed in accordance with subsection (a) of this section, the county  
11 commission shall publish a Class II legal advertisement in compliance with the provisions of §59-  
12 3-1 *et seq.* of this code, in a newspaper of general circulation in the counties wherein the  
13 hazardous waste management facility is to be located. Upon an affirmative vote of the majority of  
14 the county commissioners or upon the written petition of registered voters residing in the county  
15 equal to not less than 15 percent of the number of votes cast within the county for Governor at

16 the preceding gubernatorial election, which petition shall be filed with the county commission  
17 within 60 days after the last date of publication of the notice provided in this section, the county  
18 commission shall, upon verification of the required number of signatures on the petition, and not  
19 less than 56 days before the election, order a referendum be placed upon the ballot: *Provided,*  
20 That such a referendum is not required for a hazardous waste management facility for which at  
21 least 90 percent of the capacity is designated for hazardous waste generated at the site of  
22 disposal. Any referendum conducted pursuant to this section shall be held at the next primary, or  
23 general ~~or other countywide~~ election.

24 (1) Such referendum is to determine whether it is the will of the voters of the county that a  
25 commercial hazardous waste management facility be located in the county or that a hazardous  
26 waste management facility disposing of greater than 10,000 tons of hazardous waste per annum  
27 on site be located in the county. Any election at which such question of locating a hazardous  
28 waste management facility is voted upon shall be held at the voting precincts established for  
29 holding primary or general elections. All of the provisions of the general election laws, when not  
30 in conflict with the provisions of this article, apply to voting and elections hereunder, insofar as  
31 practicable. The Secretary of State shall prescribe the form of the petition which shall include the  
32 printed name, address and date of birth of each person whose signature appears on the petition.

33 (2) The ballot, or the ballot labels where voting machines are used, shall have printed  
34 thereon substantially the following depending upon the type of facility to be located with the  
35 county:

36 "Shall a commercial hazardous waste management facility be located within  
37 \_\_\_\_\_ County, West Virginia?

38  For the facility

39  Against the facility

40 (Place a cross mark in the square opposite your choice.)" or,

41           “Shall a hazardous waste management facility disposing of greater than ten thousand tons  
42 per annum on site be located within \_\_\_\_\_ County, West Virginia?

43            For the facility

44            Against the facility

45           (Place a cross mark in the square opposite your choice.)”

46           (3) If a majority of the legal votes cast upon the question is against the facility, then the  
47 county commission shall notify the Division of Environmental Protection and the commercial  
48 hazardous waste management facility siting board, in the case of a commercial facility, of the  
49 result and the commercial hazardous waste management facility siting board or Division of  
50 Environmental Protection, as the case may be, shall not proceed any further with the application.  
51 If a majority of the legal votes cast upon the question is for the facility, then the application process  
52 as set forth in §22-18-1 *et seq.* of this code and §22C-5-1 *et seq.* of this code, in the case of a  
53 commercial hazardous waste management facility, may proceed: *Provided*, That such vote is not  
54 binding on nor does it require the commercial hazardous waste management facility siting board  
55 to grant a certificate of site approval or the Division of Environmental Protection to issue the  
56 permit, as the case may be. If the majority of the legal votes cast is against the question, the  
57 question may be submitted to a vote at any subsequent election in the manner herein specified:  
58 *Provided, however*, That the question may not be resubmitted to a vote until two years after the  
59 date of the previous referendum.

## **CHAPTER 29. MISCELLANEOUS BOARDS AND OFFICERS.**

### **ARTICLE 22C. WEST VIRGINIA LOTTERY RACETRACK TABLE GAMES ACT.**

#### **§29-22C-7. Local option election.**

1           (a) No racetrack may be licensed under this article to operate West Virginia Lottery table  
2 games until a local option election is held in the county in which pari-mutuel wagers are received

3 at a racetrack licensed under §19-23-1 *et seq.* of this code and the voters of that county voting on  
4 the question approve having West Virginia Lottery table games at the racetrack.

5 (b) The county commission shall place the question on the ballot upon the receipt of a  
6 written notice from a licensed racetrack located within that county requesting that the question be  
7 placed on the ballot.

8 (c) The county commission of the county in which table games would be located shall give  
9 notice to the public of the election by publication of the notice as a Class II-0 legal advertisement  
10 in compliance with the provisions of §59-3-1 *et seq.* of this code and the publication area for the  
11 publication shall be the county in which the election is to be held. The date of the last publication  
12 of the notice shall fall on a date at least 30 days preceding the day of the election. A local option  
13 election shall be effective even though the date of the order of the county commission setting the  
14 election or the date of publication of notice of the election is prior to the effective date of this article  
15 if the election is otherwise held in accordance with the provisions of this section.

16 (d) On the local option election ballot shall be printed the following:

17 Shall West Virginia Lottery table games be permitted at the [name of licensed racetrack]?

18 [ ] Yes [ ] No

19 (Place a cross mark in the square next to your choice.)

20 (e) The local option election shall be held in conjunction with the next primary or general  
21 election scheduled more than 90 days following receipt by the county commission of the notice  
22 required by this section ~~or at a special election: *Provided*, That upon written request by the~~  
23 ~~licensed racetrack that a special election be called, the county commission shall order a special~~  
24 ~~election to be held on the question within ninety days after the receipt by the county commission~~  
25 ~~of that request. The county commission may require the licensed racetrack to pay the entire cost~~  
26 ~~incurred by the county to hold the special election.~~ Approval shall be by a majority of the voters  
27 casting votes at the election on the question of approval or disapproval of West Virginia Lottery  
28 table games at a licensed racetrack.

29 (f) If the majority votes against allowing table games at a licensed racetrack, no election  
30 on the issue shall be held for a period of 104 weeks. A local option election may thereafter be  
31 held in the manner provided in this section. The process to hold another election on the question  
32 shall start anew, as if no prior request for an election on the question had been filed with county  
33 commission and as if there had been no prior election on the question.

34 (g) If the majority votes for allowing West Virginia Lottery table games at a licensed  
35 racetrack facility in a county, another local option election on the issue shall not be held for a  
36 period of five years. A local option election may thereafter be held if a written petition of qualified  
37 voters residing within the county equal to at least five percent of the number of persons who were  
38 registered to vote in the next preceding general election is received by the county commission of  
39 the county in which the horse or dog racetrack is located. The petition may be in any number of  
40 counterparts. The petition shall be in the following form:

41 Petition For Local Option Election

42 We, the undersigned legally qualified voters, resident within the County of  
43 \_\_\_\_\_, do hereby petition that a special election be held within the County of  
44 \_\_\_\_\_ upon the following question: Shall West Virginia Lottery table games be  
45 permitted at the [name of racetrack]?

Name	Address	Date
		(Post office or street address)

**ARTICLE 25. AUTHORIZED GAMING FACILITY.**

**§29-25-7. Local option.**

1 (a) No gaming facility may be licensed to operate in a county until the county commission  
2 of the county holds an election on the question of whether a gaming facility may be operated  
3 within the county and the voters approve the operation of a gaming facility in the county. The  
4 election shall be determined by a vote of the resident voters of the county in which the facility is  
5 proposed to be located.

6           The county commission of the county in which the proposed facility is located shall give  
7 notice to the public of the election by publication of the notice as a Class II-0 legal advertisement  
8 in compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for the  
9 publication shall be the county in which the election is to be held. The date of the last publication  
10 of the notice shall fall on a date within the period of the 14 consecutive days next preceding the  
11 election.

12           On the local option election ballot shall be printed the following:

13           Shall West Virginia Lottery Commission video lottery games and authorized games of  
14 chance be permitted within an area at the [name of qualified historic resort hotel]?

15           [ ] Yes [ ] No

16           (Place a cross mark in the square opposite your choice.)

17           Any local option election to approve or disapprove of the proposed authorization of a  
18 gaming facility within a county shall be in accordance with procedures adopted by the  
19 commission. The local option election may be held in conjunction with a primary or general  
20 election, ~~or at a special election.~~ Approval shall be by a majority of the voters casting votes on the  
21 question of approval or disapproval of gaming facility operations at the election.

22           If a majority votes against allowing a gaming facility, no election on the issue shall be held  
23 for a period of 104 weeks. If a majority votes “yes” no election reconsidering the action may be  
24 held for a period of five years. A local option election may thereafter be held if a written petition of  
25 qualified voters residing within the county equal to at least five percent of the number of persons  
26 who were registered to vote in the next preceding general election is received by the county  
27 commission of the county in which the gaming facility is to be located. The petition may be in any  
28 number of counterparts. The election shall take place at the next primary or general election  
29 scheduled more than 90 days following receipt by the county commission of the petition required  
30 by this subsection: *Provided*, That the issue may not be placed on the ballot until all statutory  
31 notice requirements have been met: *Provided, however*, That no subsequent disapproval may

32 take effect until after the expiration of the five-year licensing period in effect at the time of the  
33 referendum.

34 (b) No local law or regulation providing any penalty, disability, restriction, regulation or  
35 prohibition for operating a gaming facility or supplying a gaming facility may be enacted, and the  
36 provisions of this article preempt all regulations, rules, ordinances and laws of any county or  
37 municipality in conflict with this article.

38 (c) Except as specifically provided in this article, no other fees or taxes may be imposed  
39 by a local governing body.

## **CHAPTER 47. REGULATION OF TRADE.**

### **ARTICLE 20. CHARITABLE BINGO.**

#### **§47-20-26. County option election.**

1 The county commission of any county is authorized to call a local option election for the  
2 purpose of determining the will of the voters as to whether the provisions of this article shall  
3 continue in effect in said county: *Provided*, That no local option election may be called to  
4 disapprove the playing of bingo games at the state fair in accordance with the provisions of this  
5 article.

6 A petition for local option election shall be in the form specified in this section and shall be  
7 signed by qualified voters residing within said county equal to at least ten percent of the persons  
8 qualified to vote within said county at the last general election. The petition may be in any number  
9 of counterparts and is sufficient if substantially in the following form:

10 PETITION ON LOCAL OPTION ELECTION RESPECTING THE CONDUCT OF BINGO  
11 GAMES FOR CHARITABLE PURPOSES IN ..... COUNTY, WEST VIRGINIA

12 Each of the undersigned certifies that he or she is a person residing in ..... County,  
13 West Virginia, and is duly qualified to vote in that county under the laws of the state, and that his  
14 or her name, address, and the date of signing this petition are correctly set forth below.

15 The undersigned petition the county commission to call and hold a local option election at  
16 ~~(1) a special or (2) the next primary, or general or special election (the petition shall specify (1) or~~  
17 ~~(2))~~ upon the following question: Shall the provisions of Article Twenty, Chapter Forty-Seven of  
18 the Code of West Virginia, 1931, as amended, continue in effect in ..... County, West Virginia?

19 Name Address Date  
20 .....

21 (Each person signing must specify either his or her post-office address or his or her street  
22 number.)

23 Upon the filing of a petition for a local option election in accordance with the provisions of  
24 this section, the county commission shall enter an order calling a local option election as specified  
25 in the petition. The county commission shall give notice of such local option election by publication  
26 thereof as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of  
27 this code, and the publication area for such publication is the county. The notice shall be so  
28 published within 14 consecutive days next preceding the election.

29 Each person qualified to vote in the county at any primary, general or special election shall  
30 likewise be qualified to vote at the local option election. The election officers appointed and  
31 qualified to serve as such at any primary, general or special election shall conduct the local option  
32 election. If the local option election is to be held at the same time as a primary, or general ~~or~~  
33 ~~special~~ election, it shall be held in connection with and as a part of that primary, or general ~~or~~  
34 ~~special~~ election. The ballots in the local option election shall be counted and returns made by the  
35 election officers and the results certified by the commissioners of election to said county  
36 commission which shall canvass the ballots, all in accordance with the laws of the State of West  
37 Virginia relating to primary and general elections insofar as the same are applicable. The county  
38 commission shall, without delay, canvass the ballots cast at said local option election and certify  
39 the result thereof.

40 The ballot to be used in said local option election shall have printed thereon substantially  
41 the following:

42 "Shall the playing of bingo to raise money for charitable or public service organizations  
43 continue in effect in ..... County of West Virginia?

44 // Yes // No

45 (Place a cross mark in the square opposite your choice.)"

46 If a majority of the voters voting at any local option election vote no on the foregoing  
47 question, the provisions of article twenty, chapter forty-seven of the Code of West Virginia, 1931,  
48 as amended, no longer continue in effect in said county.

49 No local option election may be called in a county to resubmit said question to the voters  
50 of that county, whether the question was approved or disapproved at the previous local option  
51 election, sooner than five years after the last local option election.

**ARTICLE 21. CHARITABLE RAFFLES.**

**§47-21-24. County option election.**

1 The county commission of any county is authorized to call a local option election for the  
2 purpose of determining the will of the voters as to whether the provisions of this article shall  
3 continue in effect in such county.

4 A petition for a local option election shall be in the form specified in this section and shall  
5 be signed by qualified voters residing within such county equal to at least ten percent of the  
6 individuals qualified to vote within such county at the last general election. The petition may be in  
7 any number of counterparts and is sufficient if substantially in the following form:

8 PETITION ON LOCAL OPTION ELECTION RESPECTING THE CONDUCT OF  
9 RAFFLES FOR CHARITABLE PURPOSES IN \_\_\_\_\_ COUNTY, WEST VIRGINIA

10 Each of the undersigned certifies that he or she is an individual residing in \_\_\_\_\_  
11 County, West Virginia, and is duly qualified to vote in that county under the laws of the state, and  
12 that his or her name, address and the date of signing this petition are correctly set forth below.

13           The undersigned petition the county commission to call and hold a local option election at  
 14 ~~(1) a special or (2) the next primary, or general or special election (the petition shall specify (1) or~~  
 15 ~~(2)) upon the following question:~~ Shall the provisions of article twenty-one, chapter forty-seven of  
 16 the Code of West Virginia, 1931, as amended, continue in effect in \_\_\_\_\_ County,  
 17 West Virginia?

18           Name	Address	Date
19           _____		

20           (Each individual signing must specify either his or her post-office address or his or her  
 21 street number.)

22           Upon the filing of a petition for a local option election in accordance with the provisions of  
 23 this section, the county commission shall enter an order calling a local option election as specified  
 24 in the petition. The county commission shall give notice of such local option election by publication  
 25 thereof as a Class II-0 legal advertisement in compliance with the provisions of §59-3-1 *et seq.* of  
 26 this code, and the publication area for such publication shall be the county. The notice shall be  
 27 so published within 14 consecutive days next preceding the election.

28           Each individual qualified to vote in the county at any primary, general or special election,  
 29 shall likewise be qualified to vote at the local option election. The election officers appointed and  
 30 qualified to serve as such at any primary, general or special election shall conduct the local option  
 31 election. If the local option election is to be held at the same time as a primary, or general ~~or~~  
 32 ~~special~~ election, it shall be held in connection with and as a part of that primary, or general ~~or~~  
 33 ~~special~~ election. The ballots in the local option election shall be counted and returns made by the  
 34 election officers and the results certified by the commissioners of election to such county  
 35 commission which shall canvass the ballots, all in accordance with the laws of the State of West  
 36 Virginia relating to primary and general elections insofar as the same are applicable. The county  
 37 commission shall, without delay, canvass the ballots cast at said local option election and certify  
 38 the result thereof.

## CHAPTER 60. STATE CONTROL OF ALCOHOLIC LIQUORS.

### ARTICLE 5. LOCAL OPTION ELECTIONS.

#### §60-5-1. Election in county, magisterial district or municipality.

1 A county or any municipality may in an election held especially for the purpose, determine  
2 whether the sale of alcoholic liquors for beverage purposes shall be permitted within that county  
3 or municipality.

4 A local option election shall ~~not be held within 60 days of a general or municipal election~~  
5 at the same time as the next regularly scheduled primary or general election.

#### §60-5-3. Form of petition.

1 The petition shall be in the following form:

2 Petition for Local Option Election

3 We, the undersigned legally qualified voters, resident within the county (municipality)  
4 of \_\_\_\_\_, do hereby petition that a special election be held within the county (city,  
5 town) of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, at  
6 the date of the next regularly scheduled primary or general election upon the following question:

7 Shall the sale of alcoholic beverages under the West Virginia Alcohol Beverage Control  
8 Commissioner be (permitted) (prohibited) in \_\_\_\_\_?

9 Name Address Date

10 (Post office or street and number)

#### §60-5-4. Notice of election; when held; election officers.

1 The county commission or governing body of the municipality shall give notice of the  
2 special local option election by publication thereof as a Class II-0 legal advertisement in  
3 compliance with the provisions of §59-3-1 *et seq.* of this code, and the publication area for such  
4 publication shall be the area in which the election is to be held. Such notice shall be so published  
5 within 14 consecutive days next preceding the election. The election shall be held ~~not more than~~

6 ~~90 nor less than 60 days from the filing of the petition~~ at the same time as the next regularly  
7 scheduled primary or general election. The regular election officers of the county or municipal  
8 corporation shall open the polls and conduct the election in the same manner provided for general  
9 elections.

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.