

WEST VIRGINIA LEGISLATURE
2024 FIRST EXTRAORDINARY SESSION

Introduced

House Bill 114

BY DELEGATE HANSHAW (MR. SPEAKER)

(BY REQUEST OF THE EXECUTIVE)

[Introduced May 19, 2024]

1 A BILL to amend and reenact §3-5-21 of the Code of West Virginia, 1931, as amended, relating
2 to political party nomination of presidential electors.

Be it enacted by the Legislature of West Virginia:

ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.

**§3-5-21. Party conventions to nominate of presidential electors; candidates; organization;
duties.**

1 Presidential electors shall be nominated by each political party in a manner governed and
2 prescribed by the rules of that state executive committee and not inconsistent with the rules of
3 that national political party. If party rules do not provide procedures to nominate presidential
4 electors, then ~~Candidates~~ candidates for presidential electors shall be nominated by the
5 delegated representatives of the political party assembled in a state convention to be held during
6 the months of June, July or August next preceding any general election at which presidential
7 electors are to be elected. The state executive committee of the political party, by resolution, shall
8 designate the place and fix the date of the convention, shall prescribe the number of delegates
9 thereto, and shall apportion the delegates among the several counties of the state in proportion
10 to the vote cast in the state for the party's candidate for Governor at the last preceding general
11 election at which a Governor was elected. The state executive committee shall also ascertain and
12 designate all offices for which candidates are to be nominated at the convention.

13 At least sixty days prior to the date fixed for holding any state convention, the chairman of
14 the party's state executive committee shall cause to be delivered to the party's county executive
15 committee in each county of the state a copy of the resolutions fixing the time and place for holding
16 the state convention and prescribing the number of delegates from each county to the convention.
17 Within ten days after receipt of the copy of the resolutions, the party executive committee of each
18 county shall meet and, by resolution, shall apportion the delegates to the state convention among
19 the several magisterial districts of the county, on a basis of the vote received in the county by the
20 candidate of the party for Governor at the last preceding general election at which a Governor

21 was elected, but in such apportionment of county delegates each magisterial district shall be
22 entitled to at least one delegate to the state convention. The party's county executive committee
23 shall call a meeting of the members of the political party in mass convention in the county, which
24 meeting shall be held at least thirty days prior to the date fixed for the state convention and at
25 which meeting the members of the political party in each magisterial district shall elect the number
26 of delegates to which the district is entitled in the state convention.

27 The meeting place in the county shall be as central and convenient as can reasonably be
28 selected, and all recognized members of the political party shall be entitled to participate in any
29 mass convention and in the selection of delegates. Notice of the time and place of holding the
30 county mass convention and of the person who shall act as temporary chairman thereof shall be
31 given by publication as a Class II-O legal advertisement in compliance with the provisions of
32 article three, chapter fifty-nine of this code, and the publication area for the publication shall be
33 the county. The first publication shall be made not more than fifteen days and the second
34 publication shall be made not less than five days prior to the date fixed for holding the convention.
35 The notice published shall specify the number of delegates which each magisterial district in the
36 county is entitled to elect to the state convention.

37 Upon assembling, the mass convention of the county, shall choose a chairman and a
38 secretary, who, within five days after the holding of the convention, shall certify to the chairman
39 of the state executive committee of the political party and the chairman of the county committee
40 of the political party, the names and addresses of the parties selected as delegates to the state
41 convention.

42 If, after the election, a vacancy exists for a delegate from any magisterial district, the
43 party's county executive committee, within ten days after the mass convention, shall appoint a
44 member of the political party in the magisterial district to fill the vacancy, and shall certify the
45 appointment to the chairman of the state executive committee of the political party.

46 All contests over the selection of delegates to conventions shall be heard and determined
47 by the party executive committee of the county from which the delegates are chosen, and the
48 county executive committee shall, upon written petition of any contest, meet for a hearing and
49 make a determination within ten days after the holding of a county mass convention. The circuit
50 court of the county and the Supreme Court of Appeals of the state shall have concurrent original
51 jurisdiction to review, by mandamus or other proper proceeding, the decision of a county
52 executive committee in any contest.

53 The delegates chosen and certified by and from the several magisterial districts in the
54 state and, in the event of any contest, those prevailing in the contest, shall make up the state
55 convention. The number present of those entitled to participate in any convention shall cast the
56 entire vote to which the county is entitled in the convention, and it shall require a majority vote to
57 nominate any candidate for office.

58 All nominations made at state conventions shall be certified within fifteen days thereafter,
59 by the chairman and the secretary of the convention, to the Secretary of State, who shall certify
60 them to the clerk of the circuit court of each county concerned, and the names of the persons so
61 nominated shall be printed upon the regular ballot to be voted at the ensuing general election,
62 except that the names of the presidential elector candidates shall not be printed thereon.

63 The delegates to any state convention may formulate and promulgate the party platform
64 or declaration of party principles as to them shall seem advisable.

NOTE: The purpose of this bill is to clarify political party procedure and authority to
nominate presidential electors.

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