

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 423**

4 (By Senators Beach, Green and Laird)

5 _____
6 [Originating in the Committee on the Judiciary;

7 reported February 23, 2011.]
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11 A BILL to amend and reenact §3-1-5 and §3-1-29 of the Code of West
12 Virginia, 1931, as amended, all relating to increasing the
13 limit on the size of voting precincts to five thousand
14 registered voters; increasing the size of standard receiving
15 boards in enlarged precincts; providing an option to have more
16 poll workers in a precinct during a Presidential election; and
17 providing an option to have fewer poll workers in a precinct
18 during a municipal election where there is no simultaneous
19 state or county election.

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

21 That §3-1-5 and §3-1-29 of the Code of West Virginia, 1931, as
22 amended, be amended and reenacted, all to read as follows:

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

24 **§3-1-5. Voting precincts and places established; number of voters**
25 **in precincts; precinct map; municipal map.**

1 (a) The precinct ~~shall be~~ is the basic territorial election
2 unit. The county commission shall divide each magisterial district
3 of the county into election precincts, shall number the precincts,
4 shall determine and establish the boundaries thereof, and shall
5 designate one voting place in each precinct, which place shall be
6 established as nearly as possible at the point most convenient for
7 the voters of the precinct. Each magisterial district shall
8 contain at least one voting precinct and each precinct shall have
9 but one voting place therein.

10 Each precinct within any urban center shall contain not less
11 than three hundred nor more than one thousand five hundred
12 registered voters. Each precinct in a rural or less thickly
13 settled area shall contain not less than two hundred nor more than
14 seven hundred registered voters, unless upon a written finding by
15 the county commission that establishment of or retention of a
16 precinct of less than two hundred voters would prevent undue
17 hardship to the voters, the Secretary of State determines that ~~such~~
18 the precinct be exempt from the two hundred voter minimum limit.
19 If, at any time the number of registered voters exceeds the maximum
20 number specified, the county commission shall rearrange the
21 precincts within the political division so that the new precincts
22 each contain a number of registered voters within the designated
23 limits: Provided, That any precincts with polling places that are
24 within a three mile radius of each other on July 1, 2011, may be
25 consolidated, at the discretion of the county clerk and county
26 commission, into one or more new precincts that contain not more

1 than five thousand registered voters in any urban center, nor more
2 than two thousand five hundred registered voters in a rural or less
3 thickly settled area: Provided, however, That no precincts shall be
4 consolidated pursuant to this section if the consolidation would
5 create a geographical barrier or path of travel between voters in
6 a precinct and their proposed new polling place that would create
7 an undue hardship to voters of any current precinct.

8 If a county commission fails to rearrange the precincts as
9 required, any qualified voter of the county may apply for a writ of
10 mandamus to compel the performance of this duty: *Provided, That*
11 when in the discretion of the county commission, there is only one
12 place convenient to vote within the precinct and when there are
13 more than seven hundred registered voters within the existing
14 precinct, the county commission may designate two or more precincts
15 with the same geographic boundaries and which have voting places
16 located within the same building. The county commission shall
17 designate alphabetically the voters who ~~will~~ are eligible to vote in
18 each precinct so created. Each ~~such~~ precinct shall be operated
19 separately and independently with separate voting booths, ballot
20 boxes, election commissioners and clerks, and whenever possible, in
21 separate rooms. No two of ~~such~~ the precincts may use the same
22 counting board.

23 (b) In order to facilitate the conduct of local and special
24 elections and the use of election registration records therein,
25 precinct boundaries shall be established to coincide with the
26 boundaries of any municipality of the county and with the wards or

1 other geographical districts of the municipality except in
2 instances where found by the county commission to be wholly
3 impracticable so to do. Governing bodies of all municipalities
4 shall provide accurate and current maps of their boundaries to the
5 clerk of any county commission of a county in which any portion of
6 the municipality is located.

7 (c) To facilitate the federal and state redistricting process,
8 precinct boundaries ~~must~~ shall be comprised of intersecting
9 geographic physical features or municipal boundaries recognized by
10 the U.S. Census Bureau. For purposes of this subsection,
11 geographic physical features include streets, roads, streams,
12 creeks, rivers, railroad tracks and mountain ridge lines. The
13 county commission of every county ~~must~~ shall modify precinct
14 boundaries to follow geographic physical features or municipal
15 boundaries and submit changes to the ~~West Virginia Office of~~
16 Legislative Services Division of the Joint Committee on Government
17 and Finance by June 30, 2007 and by June 30, every ten calendar
18 years thereafter. The county commission ~~must~~ shall also submit
19 precinct boundary details to the U.S. Census Bureau upon request.

20 The ~~West Virginia Office of~~ Legislative Services Division of
21 the Joint Committee on Government and Finance shall be available
22 for consultation with the county commission regarding the precinct
23 modification process: *Provided*, That nothing in this subsection
24 removes or limits the ultimate responsibility of the county
25 commission to modify precinct boundaries to follow geographic
26 physical features.

1 (d) The provisions of this section are subject to the
2 provisions of section twenty-eight, article four of this chapter
3 relating to the number of voters in precincts in which voting
4 machines are used.

5 (e) The county commission shall keep available at all times
6 during business hours in the courthouse at a place convenient for
7 public inspection a map or maps of the county and municipalities
8 with the current boundaries of all precincts.

9 **§3-1-29. Boards of election officials; definitions, composition of**
10 **boards, determination of number and type.**

11 (a) For the purpose of this article:

12 (1) The term "standard receiving board" means those election
13 officials charged with conducting the process of voting within a
14 precinct and consists of no less than five persons, to be comprised
15 as follows: including one team of poll clerks, one team of election
16 commissioners for the ballot box and one additional election
17 commissioner: Provided, That if a municipal election is held at a
18 time when there is no county or state election, the standard
19 receiving board is to consist of four persons, including one team
20 of poll clerks and one team of election commissioners for the
21 ballot box;

22 ~~(2) The term "expanded receiving board" means a standard~~
23 ~~receiving board as defined in subdivision (1) of this subsection~~
24 ~~and one additional team of poll clerks;~~

25 (A) Each precinct shall have at least one team of poll clerks,
26 one team of election commissioners for the ballot box and one

1 additional election commissioner.

2 (B) At the discretion of the county clerk and the county
3 commission, any county may add additional teams of poll clerks to
4 any precinct, as necessary to fairly and efficiently conduct an
5 election.

6 (2) If a municipal election is held at a time when there is no
7 county or state election, then the standard receiving board may, at
8 the discretion of the official charged with the administration of
9 election, consist of as few as four persons, including one team of
10 poll clerks and one team of election commissioners for the ballot
11 box.

12 (3) The term "counting board" means those election officials
13 charged with counting the ballots at the precinct in counties using
14 paper ballots and includes one team of poll clerks, one team of
15 election commissioners and one additional commissioner;

16 (4) The term "team of poll clerks" or "team of election
17 commissioners" means two persons appointed by opposite political
18 parties to perform the specific functions of the office: *Provided,*
19 That no team of poll clerks or team of election commissioners may
20 consist of two persons with the same registered political party
21 affiliation or two persons registered with no political party
22 affiliation; and

23 (5) The term "election official trainee" means an individual
24 who is sixteen or seventeen years of age who meets the requirements
25 of subdivisions (2), (3), (4), (5) and (6), subsection (a), section
26 twenty-eight of this article.

1 ~~(b) The composition of boards of election officials shall be~~
2 ~~as follows:~~

3 ~~(1) In any primary, general or special election other than a~~
4 ~~presidential primary or presidential general election, each~~
5 ~~election precinct is to have one standard receiving board;~~

6 ~~(2) In presidential primary and presidential general~~
7 ~~elections, each election precinct is to have one receiving board as~~
8 ~~follows:~~

9 ~~(A) For precincts of less than five hundred registered voters,~~
10 ~~one standard receiving board; and~~

11 ~~(B) For precincts of more than five hundred registered voters,~~
12 ~~one standard receiving board or, at the discretion of the county~~
13 ~~commission, one expanded receiving board.~~

14 ~~(3) In any election conducted using paper ballots, counting~~
15 ~~boards may be allowed or required as follows:~~

16 ~~(A) For any state, county or municipal special election, a~~
17 ~~counting board may be allowed at the discretion of the county~~
18 ~~commission;~~

19 ~~(B) In a statewide primary or general election, one counting~~
20 ~~board is required for any precinct of more than four hundred~~
21 ~~registered voters and one counting board may be allowed, at the~~
22 ~~discretion of the county commission, for any precinct of at least~~
23 ~~two hundred but no more than four hundred registered voters; and~~

24 ~~(C) In a municipal primary or general election, one counting~~
25 ~~board may be allowed, at the discretion of the municipal governing~~
26 ~~body, for any precinct of more than two hundred registered voters.~~

1 ~~(c)~~ (b) For each primary and general election in the county,
2 the county commission shall designate the number and type of
3 election boards for the various precincts according to the
4 provisions of this section. At least eighty-four days before each
5 primary and general election the county commission shall notify the
6 county executive committees of the two major political parties in
7 writing of the number of nominations which may be made for poll
8 clerks and election commissioners.

9 ~~(d)~~ (c) For each municipal election, the governing body of the
10 municipality shall perform the duties of the county commission as
11 provided in this section.

NOTE: The purpose of this bill is to increase the limit on the size of voting precincts to five thousand registered voters and to increase the size of standard receiving boards in enlarged precincts.

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