

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 31

(By Senators Beach and Klempa)

[Originating in the Committee on the Judiciary;
reported January 27, 2012.]

A BILL to amend and reenact §3-1-5 and §3-1-29 of the Code of West Virginia, 1931, as amended, all relating to establishing voting precincts and changing the composition of standard receiving boards; increasing the limit on the size of voting precincts to three thousand registered voters in urban areas and one thousand five hundred in rural areas; permitting precincts in urban or rural areas to have fewer than the minimum numbers of registered voters allowed; permitting an increase in the size of standard receiving boards in enlarged precincts; providing an option to have more poll workers and commissioners; and permitting fewer poll workers in precincts

during a municipal election where there is no simultaneous state or county election.

Be it enacted by the Legislature of West Virginia:

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

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-5. Voting precincts and places established; number of voters 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
3 district of the county into election precincts, shall number
4 the precincts, shall determine and establish the boundaries
5 thereof and shall designate one voting place in each precinct,
6 which place shall be established as nearly as possible at the
7 point most convenient for the voters of the precinct. Each
8 magisterial district shall contain at least one voting precinct
9 and each precinct shall have but one voting place therein.

10 Each precinct within any urban center shall contain not
11 less than three hundred nor more than one thousand five
12 hundred registered voters. Each precinct in a rural or less
13 thickly settled area shall contain not less than two hundred
14 nor more than seven hundred registered voters, ~~unless upon~~

15 ~~a written finding by the county commission that establish-~~
16 ~~ment of or retention of a precinct of less than two hundred~~
17 ~~voters would prevent undue hardship to the voters, the~~
18 ~~Secretary of State determines that such precinct be exempt~~
19 ~~from the two hundred voter minimum limit. Upon a written~~
20 ~~finding by the county commission that establishment of or~~
21 ~~retention of a precinct of less than the minimum numbers~~
22 ~~allowed in this subsection would prevent undue hardship to~~
23 ~~the voters, the Secretary of State may determine that the~~
24 ~~precinct be exempt from the minimum numbers allowed. If,~~
25 at any time the number of registered voters exceeds the
26 maximum number specified, the county commission shall
27 rearrange the precincts within the political division so that
28 the new precincts each contain a number of registered voters
29 within the designated limits: *Provided, That any precincts*
30 *with polling places that are within a one mile radius of each*
31 *other on or after July 1, 2012, may be consolidated, at the*
32 *discretion of the county clerk and county commission, into*
33 *one or more new precincts that contain not more than three*
34 *thousand registered voters in any urban center, nor more*
35 *than one thousand five hundred registered voters in a rural*
36 *or less thickly settled area: *Provided, however, That no**

37 precincts shall be consolidated pursuant to this section if the
38 consolidation would create a geographical barrier or path of
39 travel between voters in a precinct and their proposed new
40 polling place that would create an undue hardship to voters
41 of any current precinct.

42 If a county commission fails to rearrange the precincts as
43 required, any qualified voter of the county may apply for a
44 writ of mandamus to compel the performance of this duty:
45 *Provided*, That when in the discretion of the county commis-
46 sion, there is only one place convenient to vote within the
47 precinct and when there are more than seven hundred
48 registered voters within the existing precinct, the county
49 commission may designate two or more precincts with the
50 same geographic boundaries and which have voting places
51 located within the same building. The county commission
52 shall designate alphabetically the voters who ~~will be~~ are
53 eligible to vote in each precinct so created. Each ~~such~~
54 precinct shall be operated separately and independently with
55 separate voting booths, ballot boxes, election commissioners
56 and clerks, and whenever possible, in separate rooms. No
57 two of ~~such~~ the precincts may use the same counting board.

58 (b) In order to facilitate the conduct of local and special
59 elections and the use of election registration records therein,
60 precinct boundaries shall be established to coincide with the
61 boundaries of any municipality of the county and with the
62 wards or other geographical districts of the municipality
63 except in instances where found by the county commission
64 to be wholly impracticable so to do. Governing bodies of all
65 municipalities shall provide accurate and current maps of
66 their boundaries to the clerk of any county commission of a
67 county in which any portion of the municipality is located.

68 (c) To facilitate the federal and state redistricting
69 process, precinct boundaries ~~must~~ shall be comprised of
70 intersecting geographic physical features or municipal
71 boundaries recognized by the U. S. Census Bureau. For
72 purposes of this subsection, geographic physical features
73 include streets, roads, streams, creeks, rivers, railroad tracks
74 and mountain ridge lines. The county commission of every
75 county ~~must~~ shall modify precinct boundaries to follow
76 geographic physical features or municipal boundaries and
77 submit changes to the ~~West Virginia Office of Legislative~~
78 Services Division of the Joint Committee on Government and
79 Finance by June 30, 2007, and by June 30, every ten calendar

80 years thereafter. The county commission ~~must~~ shall also
81 submit precinct boundary details to the U.S. Census Bureau
82 upon request.

83 The ~~West Virginia Office of Legislative Services~~ Division
84 of the Joint Committee on Government and Finance shall be
85 available for consultation with the county commission
86 regarding the precinct modification process: *Provided*, That
87 nothing in this subsection removes or limits the ultimate
88 responsibility of the county commission to modify precinct
89 boundaries to follow geographic physical features.

90 ~~(d) The provisions of this section are subject to the~~
91 ~~provisions of section twenty-eight, article four of this~~
92 ~~chapter relating to the number of voters in precincts in~~
93 ~~which voting machines are used.~~

94 ~~(e)~~(d) The county commission shall keep available at all
95 times during business hours in the courthouse at a place
96 convenient for public inspection a map or maps of the county
97 and municipalities with the current boundaries of all
98 precincts.

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

1 (a) For the purpose of this article:

2 (1) The term “standard receiving board” means those
3 election officials charged with conducting the process of
4 voting within a precinct and consists of no less than five
5 persons, to be comprised as follows: including one team of
6 poll clerks, one team of election commissioners for the ballot
7 box and one additional election commissioner. *Provided,*
8 That if a municipal election is held at a time when there is no
9 county or state election, the standard receiving board is to
10 consist of four persons, including one team of poll clerks and
11 one team of election commissioners for the ballot box;

12 ~~(2) The term “expanded receiving board” means a~~
13 ~~standard receiving board as defined in subdivision (1) of this~~
14 ~~subsection and one additional team of poll clerks;~~

15 (A) Each precinct shall have at least one team of poll
16 clerks, one team of election commissioners for the ballot box
17 and one additional election commissioner.

18 (B) At the discretion of the county clerk and the county
19 commission, any county may add additional teams of poll
20 clerks and commissioners to any precinct, as necessary to
21 fairly and efficiently conduct an election;

22 (2) If a municipal election is held at a time when there is
23 no county or state election, then the standard receiving

24 board may, at the discretion of the official charged with the
25 administration of election, consist of as few as four persons,
26 including one team of poll clerks and one team of election
27 commissioners for the ballot box;

28 (3) The term “counting board” means those election
29 officials charged with counting the ballots at the precinct in
30 counties using paper ballots and includes one team of poll
31 clerks, one team of election commissioners and one addi-
32 tional commissioner;

33 (4) The term “team of poll clerks” or “team of election
34 commissioners” means two persons appointed by opposite
35 political parties to perform the specific functions of the
36 office: *Provided*, That no team of poll clerks or team of
37 election commissioners may consist of two persons with the
38 same registered political party affiliation or two persons
39 registered with no political party affiliation; and

40 (5) The term “election official trainee” means an individ-
41 ual who is sixteen or seventeen years of age who meets the
42 requirements of subdivisions (2), (3), (4), (5) and (6), subsec-
43 tion (a), section twenty-eight of this article.

44 ~~(b) The composition of boards of election officials shall~~
45 ~~be as follows:~~

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

49 ~~(2) In presidential primary and presidential general~~
50 ~~elections, each election precinct is to have one receiving~~
51 ~~board as follows:~~

52 ~~(A) For precincts of less than five hundred registered~~
53 ~~voters, one standard receiving board, and~~

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

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

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

62 ~~(B) In a statewide primary or general election, one~~
63 ~~counting board is required for any precinct of more than four~~
64 ~~hundred registered voters and one counting board may be~~
65 ~~allowed, at the discretion of the county commission, for any~~
66 ~~precinct of at least two hundred but no more than four~~
67 ~~hundred registered voters; and~~

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

72 (†) (b) For each primary and general election in the
73 county, the county commission shall designate the number
74 and type of election boards for the various precincts accord-
75 ing to the provisions of this section. At least eighty-four days
76 before each primary and general election the county commis-
77 sion shall notify the county executive committees of the two
78 major political parties in writing of the number of nomina-
79 tions which may be made for poll clerks and election com-
80 missioners.

81 (†) (c) For each municipal election, the governing body of
82 the municipality shall perform the duties of the county
83 commission as provided in this section.