

Senate Bill No. 461

(By Senator Unger)

[Introduced January 31, 2012; referred to
the Committee on the Judiciary.]

A BILL to amend and reenact §3-1-50 of the Code of West Virginia, 1931, as amended, relating to election complaint procedure.

Be it enacted by the Legislature of West Virginia:

That §3-1-50 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 1. GENERAL PROVISIONS AND DEFINITIONS.

§3-1-50. Establishment of state-based administrative complaint procedures.

1 The Secretary of State shall establish and maintain a
2 state-based administrative complaint procedure for com-
3 plaints received concerning election violations which shall
4 meet the following requirements:

5 (1) The procedures shall be uniform and nondiscrimina-
6 tory.

7 (2) Under the procedures, any person who believes that
8 there is a violation of any provision of ~~this chapter~~ Title III
9 of the Help America Vote Act, Pub. L. 107-252, including a
10 violation which has occurred, is occurring or is about to
11 occur, may file a complaint.

12 (3) Any complaint filed under the procedures shall be in
13 writing, notarized and signed and sworn by the person filing
14 the complaint.

15 (4) The Secretary of State may consolidate complaints
16 filed under this section.

17 (5) At the request of the complainant there shall be a
18 hearing on the record.

19 (6) Violations of any provision of this chapter shall be
20 punishable in accordance with the provisions of article nine
21 of this chapter.

22 (7) If, under the procedures, the Secretary of State
23 determines that there is no violation, the Secretary of State
24 shall dismiss the complaint and publish the results of the
25 procedures.

26 (8) The Secretary of State shall make a final determina-
27 tion with respect to a complaint prior to the expiration of the
28 ninety-day period which begins on the date the complaint is
29 filed unless the complainant consents to a longer period for
30 making a determination.

31 (9) If the Secretary of State fails to meet the deadline
32 applicable under subdivision (8) of this section, the com-
33 plaint shall be resolved within sixty days under alternative
34 dispute resolution procedures established for purposes of this
35 section. The record and other materials from any proceedings
36 conducted under the complaint procedures established under
37 this section shall be made available for use under the
38 alternative dispute resolution procedures.

(NOTE: The purpose of this bill is to correct a reference to applicable statutes in order to conform the language to pertinent federal code.

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

JUDICIARY COMMITTEE AMENDMENT

By striking out the title and substituting therefor a new title, to read as follows:

Eng. Senate Bill No. 461—A BILL to amend and reenact §3-1-50 of the Code of West Virginia, 1931, as amended, relating to correcting language relating to election complaint procedures to conform the language to pertinent federal code.