

**WEST VIRGINIA LEGISLATURE**  
**EIGHTY-FIRST LEGISLATURE**  
**REGULAR SESSION, 2013**



**ENROLLED**

COMMITTEE SUBSTITUTE

FOR

**Senate Bill No. 145**

(SENATOR UNGER, *ORIGINAL SPONSOR*)

[PASSED APRIL 9, 2013; IN EFFECT NINETY DAYS FROM PASSAGE.]

**E N R O L L E D**  
COMMITTEE SUBSTITUTE  
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**Senate Bill No. 145**

(SENATOR UNGER, *original sponsor*)

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[Passed April 9, 2013; in effect ninety days from passage.]

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AN ACT to amend and reenact §3-1-50 of the Code of West Virginia, 1931, as amended, relating to the administrative procedure in response to election-related complaints; clarifying language to allow the procedure to be utilized for certain federal election violations; and providing an exception to the procedure for certain allegations that may result in a finding of a criminal violation.

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

5 (1) The procedures shall be uniform and  
6 nondiscriminatory.

7 (2) Under the procedures, any person who believes that  
8 there is a violation of any provision of this chapter or 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 or Title III  
20 of the Help America Vote Act, Pub. L. 107-252 shall be  
21 punishable in accordance with the provisions of article nine  
22 of this chapter.

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

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

32 (9) If the Secretary of State fails to meet the deadline  
33 applicable under subdivision (8) of this section, the complaint

34 shall be resolved within sixty days under alternative dispute  
35 resolution procedures established for purposes of this section.  
36 The record and other materials from any proceedings  
37 conducted under the complaint procedures established under  
38 this section shall be made available for use under the  
39 alternative dispute resolution procedures.

40 (b) The administrative complaint procedure required by  
41 subsection (a) of this section is not applicable if, within thirty  
42 days of the filing of the complaint: (1) The Secretary of State  
43 initiates an investigation; (2) the Secretary of State  
44 determines that the allegations contained in the complaint  
45 may result in a finding of a criminal violation; and (3) the  
46 Secretary of State determines that the administrative  
47 complaint procedure required by this section would endanger  
48 or impede the associated criminal investigation: *Provided,*  
49 That within three business days thereafter the Secretary of  
50 State shall notify the complainant in writing that the  
51 allegations contained in the complaint may result in a finding  
52 of a criminal violation and, therefore, the administrative  
53 procedure contained in this section is inapplicable.



The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman Senate Committee*

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*Chairman House Committee*

Originated in the Senate.

In effect ninety days from passage.

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*Clerk of the Senate*

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*Clerk of the House of Delegates*

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*President of the Senate*

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*Speaker of the House of Delegates*

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The within ..... this the .....  
Day of ....., 2013.

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*Governor*