

1 COMMITTEE SUBSTITUTE

2 for

3 **H. B. 4473**

4
5 (By Delegates Fleischauer, Manypenny, Poore,
6 Marshall, Iaquina, Skinner and Hamilton)

7 (Originating in the Committee on the Judiciary)

8 [February 18, 2014]

9
10 A BILL to amend and reenact §3-1-5 and §3-1-29 of the Code of West
11 Virginia, 1931, as amended, all relating to establishing
12 voting precincts and changing the composition of standard
13 receiving boards; increasing the limit on the size of voting
14 precincts to three thousand registered voters in urban areas
15 and one thousand five hundred in rural areas; permitting
16 precincts in urban or rural areas to have fewer than the
17 minimum numbers of registered voters allowed; permitting an
18 increase in the size of standard receiving boards in enlarged
19 precincts; providing an option to have more poll workers and
20 commissioners; and permitting fewer poll workers in precincts
21 during a municipal election where there is no simultaneous
22 state or county election.

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

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

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

2 **§3-1-5. Voting precincts and places established; number of voters**
3 **in precincts; precinct map; municipal map.**

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

13 Each precinct within any urban center shall contain not less
14 than three hundred nor more than one thousand five hundred
15 registered voters. Each precinct in a rural or less thickly
16 settled area shall contain not less than two hundred nor more than
17 seven hundred registered voters, ~~unless upon a written finding by~~
18 ~~the county commission that establishment of or retention of a~~
19 ~~precinct of less than two hundred voters would prevent undue~~
20 ~~hardship to the voters, the Secretary of State determines that such~~
21 ~~precinct be exempt from the two hundred voter minimum limit. A~~
22 county commission may permit the establishment or retention of a
23 precinct less than the minimum numbers allowed in this subsection
24 upon making a written finding that to do otherwise would cause
25 undue hardship to the voters. If, at any time the number of

1 registered voters exceeds the maximum number specified, the county
2 commission shall rearrange the precincts within the political
3 division so that the new precincts each contain a number of
4 registered voters within the designated limits: Provided, That any
5 precincts with polling places that are within a one mile radius of
6 each other on or after July 1, 2014, may be consolidated, at the
7 discretion of the county commission, into one or more new precincts
8 that contain not more than three thousand registered voters in any
9 urban center, nor more than one thousand five hundred registered
10 voters in a rural or less thickly settled area: Provided, however,
11 That no precincts may be consolidated pursuant to this section if
12 the consolidation would create a geographical barrier or path of
13 travel between voters in a precinct and their proposed new polling
14 place that would create an undue hardship to voters of any current
15 precinct.

16 If a county commission fails to rearrange the precincts as
17 required, any qualified voter of the county may apply for a writ of
18 mandamus to compel the performance of this duty: *Provided, That*
19 when in the discretion of the county commission, there is only one
20 place convenient to vote within the precinct and when there are
21 more than seven hundred registered voters within the existing
22 precinct, the county commission may designate two or more precincts
23 with the same geographic boundaries and which have voting places
24 located within the same building. The county commission shall
25 designate alphabetically the voters who ~~will be~~ are eligible to

1 vote in each precinct so created. Each ~~such~~ precinct shall be
2 operated separately and independently with separate voting booths,
3 ballot boxes, election commissioners and clerks, and whenever
4 possible, in separate rooms. No two of ~~such~~ the precincts may use
5 the same counting board.

6 (b) In order to facilitate the conduct of local and special
7 elections and the use of election registration records therein,
8 precinct boundaries shall be established to coincide with the
9 boundaries of any municipality of the county and with the wards or
10 other geographical districts of the municipality except in
11 instances where found by the county commission to be wholly
12 impracticable so to do. Governing bodies of all municipalities
13 shall provide accurate and current maps of their boundaries to the
14 clerk of any county commission of a county in which any portion of
15 the municipality is located.

16 (c) To facilitate the federal and state redistricting process,
17 precinct boundaries ~~must~~ shall be comprised of intersecting
18 geographic physical features or municipal boundaries recognized by
19 the U.S. Census Bureau. For purposes of this subsection,
20 geographic physical features include streets, roads, streams,
21 creeks, rivers, railroad tracks and mountain ridge lines. The
22 county commission of every county ~~must~~ shall modify precinct
23 boundaries to follow geographic physical features or municipal
24 boundaries and submit changes to the ~~West Virginia office of~~
25 Legislative Services Division of the Joint Committee on Government

1 and Finance by June 30, 2007 and by June 30, every ten calendar
2 years thereafter. The county commission ~~must~~ shall also submit
3 precinct boundary details to the U.S. Census Bureau upon request.

4 The ~~West Virginia office of~~ Legislative Services Division of
5 the Joint Committee on Government and Finance shall be available
6 for consultation with the county commission regarding the precinct
7 modification process: *Provided*, That nothing in this subsection
8 removes or limits the ultimate responsibility of the county
9 commission to modify precinct boundaries to follow geographic
10 physical features.

11 ~~(d) The provisions of this section are subject to the~~
12 ~~provisions of section twenty-eight, article four of this chapter~~
13 ~~relating to the number of voters in precincts in which voting~~
14 ~~machines are used.~~

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

19 **§3-1-29. Boards of election officials; definitions, composition of**
20 **boards, determination of number and type.**

21 (a) For the purpose of this article:

22 (1) The term "standard receiving board" means those election
23 officials charged with conducting the process of voting within a
24 precinct and consists of no less than five persons, to be comprised
25 as follows: including one team of poll clerks, one team of election

1 ~~commissioners for the ballot box and one additional election~~
2 ~~commissioner: *Provided*, That if a municipal election is held at a~~
3 ~~time when there is no county or state election, the standard~~
4 ~~receiving board is to consist of four persons, including one team~~
5 ~~of poll clerks and one team of election commissioners for the~~
6 ~~ballot box;~~

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

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

13 (B) At the discretion of the county commission, any county may
14 add additional teams of poll clerks and commissioners to any
15 precinct, as necessary to fairly and efficiently conduct an
16 election;

17 (2) If a municipal election is held at a time when there is no
18 county or state election, then the standard receiving board may, at
19 the discretion of the official charged with the administration of
20 election, consist of as few as four persons, including one team of
21 poll clerks and one team of election commissioners for the ballot
22 box;

23 (3) The term "counting board" means those election officials
24 charged with counting the ballots at the precinct in counties using
25 paper ballots and includes one team of poll clerks, one team of

1 election commissioners and one additional commissioner;

2 (4) The term "team of poll clerks" or "team of election
3 commissioners" means two persons appointed by opposite political
4 parties to perform the specific functions of the office: *Provided,*
5 That no team of poll clerks or team of election commissioners may
6 consist of two persons with the same registered political party
7 affiliation or two persons registered with no political party
8 affiliation; and

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

13 ~~(b) The composition of boards of election officials shall be~~
14 ~~Has follows:~~

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

18 ~~(2) In presidential primary and presidential general~~
19 ~~elections, each election precinct is to have one receiving board as~~
20 ~~follows:~~

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

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

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

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

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

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

14 ~~(c)~~ (b) For each primary and general election in the county,
15 the county commission shall designate the number and type of
16 election boards for the various precincts according to the
17 provisions of this section. At least eighty-four days before each
18 primary and general election the county commission shall notify the
19 county executive committees of the two major political parties in
20 writing of the number of nominations which may be made for poll
21 clerks and election commissioners.

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

