

**H. B. 2116**

(By Delegate Lane, Moffatt and Ihle)

[Introduced January 20, 2015; referred to the

Committee on the Judiciary.]

A BILL to amend and reenact §3-6-5 of the Code of West Virginia, 1931, as amended, relating to elections and write-in candidates; eliminating straight ticket voting; and updating language on write-in candidates.

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

That §3-6-5 of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

**ARTICLE 6. CONDUCT AND ADMINISTRATION OF ELECTIONS.**

**§3-6-5. Rules and procedures in election other than primaries.**

~~The provisions of Article one of this chapter relating to elections generally shall govern and control~~ governs and controls arrangements and election officials for the conduct of elections under this article. The following rules and procedures ~~shall~~ govern the voting for candidates in general and special elections:

~~(a) If the voter desires to vote a straight ticket, or in other words, for each and every candidate~~

1 ~~for one party for whatever office nominated, the voter shall either:~~

2 ~~(1) Mark the position designated for a straight ticket in the manner appropriate to the voting~~  
3 ~~system; or~~

4 ~~(2) Mark the voting position for each and every candidate of the chosen party in the manner~~  
5 ~~appropriate to the voting system.~~

6 ~~(b) (a) If the voter desires to vote, a mixed ticket, or in other words, for candidates of~~  
7 ~~different parties, the voter shall either:~~

8 ~~(1) Omit marking any straight ticket voting position and Mark, in the manner appropriate to~~  
9 ~~the voting system, the name of each candidate for whom he or she desires to vote on whatever ticket~~  
10 ~~the name may be; or~~

11 ~~(2) Mark the position designated for a straight ticket for the party for some of whose~~  
12 ~~candidates he or she desires to vote and then mark the name of any candidate of any other party for~~  
13 ~~whom he or she may desire to vote, in which case the cross mark in the circular space above the~~  
14 ~~name of the party straight ticket mark will cast his or her vote for every candidate on the ticket of~~  
15 ~~the party except for offices for which candidates are marked on other party tickets and the marks for~~  
16 ~~the candidates will cast a vote for them or~~

17 ~~(3) (2) Write with ink or other means or affix a sticker or label or place an ink-stamped~~  
18 ~~impression of the name of an official write-in candidate for an office for whom he or she desires to~~  
19 ~~vote in the space designated for write-in votes for the particular voting system or for paper ballot~~  
20 ~~systems, write or place the name and office designation in any position on the face of the ballot~~  
21 ~~which makes the intention of the voter clear as to both the office and the candidate chosen.~~

22 However, where electronic voting systems authorized by article four-a of this chapter are used, the

1 voter shall mark the location necessary to indicate that a write-in vote is to be cast.

2 ~~(c) If in marking either a straight or mixed ticket as above defined, a straight ticket voting~~  
3 ~~position is marked, and also one or more marks are made for candidates on the same ticket for~~  
4 ~~offices for which candidates on other party tickets are not individually marked, the marks before the~~  
5 ~~name of candidate on the ticket so marked shall be treated as surplusage and ignored.~~

6 ~~(d) When a voter casts a straight ticket vote and also writes in any name for an office, the~~  
7 ~~straight ticket vote for that office shall be rejected, whether or not a vote can be counted for a~~  
8 ~~write-in candidate.~~

9 ~~(e)~~ (b) The Secretary of State may proscribe devices for casting write-in votes which would  
10 cause mechanical difficulty with voting machines or electronic devices or which would obliterate  
11 or deface a paper ballot or any portion thereof, but the Secretary of State shall preserve the right to  
12 vote by a write-in vote for those candidates who have filed and have been certified as official  
13 write-in candidates under the provisions of section four-a of this article.

14 ~~(f)~~ (c) If the voter marks more names than there are persons to be elected to an office or if,  
15 for any reason, it is impossible to determine the voter's choice for an office to be filled, the ballot  
16 shall not be counted for the office. The intention of the voter shall be deemed to be clear if the  
17 write-in vote cast for an office contains both the first and last name of an official write-in candidate  
18 for that office; and if no two official write-in candidates for that office share a first or last name,  
19 either the first name or last name alone shall be deemed to express the clear intention of the voter.

20 ~~(g)~~ (d) Except as otherwise specifically provided in this chapter, no ballot shall be rejected  
21 for any technical error which does not make it impossible to determine the voter's choice.

NOTE: The purpose of this bill is to eliminate straight ticket voting as an option on election ballots. The bill also updates language concerning write-in candidates.

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