

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4593**

BY DELEGATE HIGGINBOTHAM

[Introduced January 29, 2020; Referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §3-1-30 of the Code of West Virginia, 1931, as amended, all relating  
 2 to authorizing the assignment of poll workers to serve more than one precinct when those  
 3 precinct polling places are located in the same building or facility.

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

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

**§3-1-30. Nomination and appointment of election officials and alternates; notice of  
 appointment; appointment to fill vacancies in election boards.**

1 (a) For any primary, general or special election held throughout a county, poll clerks and  
 2 election commissioners may be nominated as follows:

3 (1) The county executive committee for each of the two major political parties may, by a  
 4 majority vote of the committee at a duly called meeting, nominate one qualified person for each  
 5 team of poll clerks and one qualified person for each team of election commissioners to be  
 6 appointed for the election;

7 (2) The appointing body shall select one qualified person as the additional election  
 8 commissioner for each board of election officials;

9 (3) Each county executive committee shall also nominate qualified persons as alternates  
 10 for at least 10 percent of the poll clerks and election commissioners to be appointed in the county  
 11 and is authorized to nominate as many qualified persons as alternates as there are precincts in  
 12 the county to be called upon to serve in the event any of the persons originally appointed fail to  
 13 accept appointment or fail to appear for the required training or for the preparation or execution  
 14 of their duties;

15 (4) When an executive committee nominates qualified persons as poll clerks, election  
 16 commissioners or alternates, the committee, or its ~~chairman~~ chair or secretary on its behalf, shall  
 17 file in writing with the appointing body, no later than the 70th day before the election, a list of those  
 18 persons nominated and the positions for which they are designated.

19 (b) For any municipal primary, general or special election, the poll clerks and election

20 commissioners may be nominated as follows:

21 (1) In municipalities which have municipal executive committees for the two major political  
22 parties in the municipality, each committee may nominate election officials in the manner provided  
23 for the nomination of election officials by county executive committees in subsection (a) of this  
24 section;

25 (2) In municipalities which do not have executive committees, the governing body shall  
26 provide by ordinance for a method of nominating election officials or shall nominate as many  
27 eligible persons as are required, giving due consideration to any recommendations made by  
28 voters of the municipality or by candidates on the ballot.

29 (c) The governing body responsible for appointing election officials is:

30 (1) The county commission for any primary, general or special election ordered by the  
31 county commission and any joint county and municipal election;

32 (2) The board of education for any special election ordered by the board of education  
33 conducted apart from any other election;

34 (3) The municipal governing body for any primary, general or special municipal election  
35 ordered by the governing body.

36 (d) The qualifications for persons nominated to serve as election officials may be  
37 confirmed prior to appointment by the clerk of the county commission for any election ordered by  
38 the county commission or for any joint county and municipal election and by the official recorder  
39 of the municipality for a municipal election.

40 (e) The appropriate governing body shall appoint the election officials for each designated  
41 election board no later than the 49th day before the election as follows:

42 (1) Those eligible persons whose nominations for poll clerk and election commissioner  
43 were timely filed by the executive committees and those additional persons selected to serve as  
44 an election commissioner are to be appointed;

45 (2) The governing body shall fill any positions for which no nominations were filed.

46 (f) At the same time as the appointment of election officials or at a subsequent meeting  
47 the governing body shall appoint persons as alternates. However, no alternate may be eligible for  
48 compensation for election training unless the alternate is subsequently appointed as an election  
49 official or is instructed to attend and actually attends training as an alternate and is available to  
50 serve on election day. Alternates shall be appointed and serve as follows:

51 (1) Those alternates nominated by the executive committees shall be appointed;

52 (2) The governing body may appoint additional alternates who may be called upon to fill  
53 vacancies after all alternates designated by the executive committees have been assigned, have  
54 declined to serve or have failed to attend training; and

55 (3) The governing body may determine the number of persons who may be instructed to  
56 attend training as alternates.

57 (g) The clerk of the county commission shall appoint qualified persons to fill all vacancies  
58 existing after all previously appointed alternates have been assigned, have declined to serve or  
59 have failed to attend training.

60 (h) Within seven days following appointment, the clerk of the county commission shall  
61 notify, by first-class mail, all election commissioners, poll clerks and alternates of the fact of their  
62 appointment and include with the notice a response notice form for the appointed person to return  
63 indicating whether or not he or she agrees to serve in the specified capacity in the election.

64 (i) The position of any person notified of appointment who fails to return the response  
65 notice or otherwise confirm to the clerk of the county commission his or her agreement to serve  
66 within 14 days following the date of appointment is considered vacant and the clerk shall proceed  
67 to fill the vacancies according to the provisions of this section.

68 (j) If the governing body and the clerk of the county commission are unable to nominate a  
69 sufficient number of qualified persons agreeing to serve on a standard receiving board for each  
70 precinct, the clerk may assign members of one precinct's standard receiving board to serve  
71 simultaneously on the standard receiving board of another precinct where the polling places of

72 both precincts are located within the same physical building or facility: *Provided*, That no more  
73 than three precincts within the same building or facility may share board members in this manner.

74 ~~(j)~~ (k) If an appointed election official fails to appear at the polling place by 45 minutes past  
75 five o'clock a.m. on election day, the election officials present shall contact the office of the clerk  
76 of the county commission for assistance in filling the vacancy. The clerk shall proceed as follows:

77 (1) The clerk may attempt to contact the person originally appointed, may assign an  
78 alternate nominated by the same political party as the person absent if one is available or, if no  
79 alternate is available, may appoint another eligible person;

80 (2) If the election officials present are unable to contact the clerk within a reasonable time,  
81 they shall diligently attempt to fill the position with an eligible person of the same political party as  
82 the party that nominated the person absent until a qualified person has agreed to serve;

83 (3) If two teams of election officials, as defined in §3-1-29 of this code, are present at the  
84 polling place, the person appointed to fill a vacancy in the position of the additional commissioner  
85 may be of either political party.

86 ~~(k)~~ (l) In a municipal election, the recorder or other official designated by charter or  
87 ordinance to perform election responsibilities shall perform the duties of the clerk of the county  
88 commission as provided in this section.

NOTE: The purpose of this bill is to provide greater flexibility in the assignment of poll workers by allowing poll workers to serve up to three precincts when those precinct polling places are located within the same building.

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