

# **WEST VIRGINIA LEGISLATURE**

## **2023 REGULAR SESSION**

**Introduced**

### **House Bill 3406**

By Delegate Cannon

[Introduced; referred  
to the Committee on ]

1 A BILL to amend and reenact §3-5-1 and §3-5-3 of the Code of West Virginia, 1931, as amended,  
 2 relating to providing for a presidential preference primary election in presidential election  
 3 years to be held on the second Tuesday of February; conducting; providing for  
 4 administration of presidential primary elections; and providing for rulemaking authority by  
 5 the Secretary of State.

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

## **ARTICLE 5. PRIMARY ELECTIONS AND NOMINATING PROCEDURES.**

### **§3-5-1. Time and place of holding primary elections in the year one thousand nine hundred eighty and thereafter; hours polls open.**

1 Primary elections shall be held at the voting place in each of the voting precincts in the  
 2 state, for the purposes set forth in this article, on the second Tuesday in May 1986 and in each  
 3 second year thereafter: Provided, That in presidential elections years, a presidential primary  
 4 election shall be held at the voting place in each of the voting precincts in the state on the second  
 5 Tuesday of February in accordance with section 3 of this article.

6 At such election the polls shall be opened and closed at the hours provided for opening and  
 7 closing the polls in a general election.

### **§3-5-3. Presidential preference primary election.**

1 (a) In presidential election years, in addition to the candidates required to be nominated at  
 2 the primary election, a presidential primary election shall be held on the second Tuesday of  
 3 February, for the sole purpose of providing the qualified voters of each political party shall have the  
 4 opportunity of voting for their choice among those aspiring to be the candidates of their respective  
 5 parties for president of the United States.

6 (b) Except as otherwise specifically provided in this section, the provisions of this article  
 7 applicable to the conduct and administration of primary elections apply to the conduct and  
 8 administration of a primary presidential election.

9 (c) The names of such aspirants shall be printed on the official presidential primary

10 election ballot of their respective parties, as provided in section 13 of this article, upon the filing  
11 with the Secretary of State of the certificate of announcement as provided in section seven of this  
12 article and subsection (d) of this section and the filing fee or petition in lieu of filing fee as provided  
13 in sections eight and eight-a of this article. ~~and the~~ The ballot shall be marked and the vote shall be  
14 counted, canvassed and returned under the same conditions as to names, certificates and other  
15 matters, as the names and certificates of the party aspirants for the party nomination for the office  
16 of Governor.

17 (d) Notwithstanding the provisions of subsection (c), section 7 of this article, the certificate  
18 of announcement by a candidate for president of the United States shall be filed with the Secretary  
19 of State not earlier than the second Monday in December before the presidential primary election  
20 day and not later than the last Saturday in December before the presidential primary election day  
21 and must be received before midnight, eastern standard time, of that day or, if mailed, shall be  
22 postmarked by the United States Postal Service before that hour. On the final day of the filing  
23 period, the office of the Secretary of State shall be open from 9:00 a.m. until 11:59 p.m.

24 (e) The Secretary of State shall propose rules for legislative approval in accordance with  
25 §29A-3-1 et seq. of this code to implement and administer the provisions of this section.

NOTE: The purpose of this bill is to establish a presidential primary election in presidential election years.

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