

2016 BEST PRACTICES GUIDE FOR

SPECIAL LEVY AND BOND ELECTIONS



WEST VIRGINIA SECRETARY OF STATE'S OFFICE
ELECTIONS DIVISION

Planning Levy and Bond Elections

The governing body may call for an election to provide for excess levies for continuing operating expenses or bond issues for facility improvements.

Excess levies may continue for a maximum of five years for county commissions, municipalities and boards of education. These additional levies, which are assessed on the basis of fiscal years beginning July 1, must have been approved by the voters. In order for city and county levies to pass, 60% of the voters must vote for the levy. For a school board levy election, a majority of voters must cast their ballot in favor of the additional levy for it to pass. The election must be certified to the State Auditor's Office. Check with Auditor's Office for applicable deadlines. (§11-8-16)

One of the most common problems is neglecting to plan for elections to renew excess levies in time. Delaying may mean the election cannot be conducted within the requirements of law, and could result in legal challenges.

Therefore, choosing an election date is a very important decision. Elections scheduled around holidays or in the dead of winter make for difficulty in obtaining enough election officials, risks of severe weather situations and other problems. To gain maximum flexibility, the preliminary decision about a possible election date should be made 12-15 months before the current excess levy is scheduled to expire. An entity may submit their proposed election order and ballot to the Local Government Services Division of the State Auditor's office for assistance or review to avoid potential problems and delays.

If you are planning to conduct a bond issue, the lead time required to develop the plan and order for the election is much longer than the minimum time reflected in the calendar. Trying to throw a plan together too quickly can result in poor decisions about projects, anticipated costs, sites and other matters.

Where a state-county primary or general election will occur during the same fiscal year as your levy or bond election, other considerations are important.

- * Holding an excess levy in conjunction with another election will save thousands of dollars for the levying body.
- * It is difficult, if not impossible, for county clerks to perform the necessary duties for a special election if it is conducted within 70 days of a state/county primary or general election.
- * Special elections scheduled shortly before or shortly after general elections tend to generate anger by voters who feel tax dollars are being wasted.

The information in this publication is designed to assist governing bodies in conducting levy and bond elections according to the requirements of state election law.

Calendar for Special Elections For Excess Levies & Bond Issues

Using This Calendar

The number of days provided will allow you to calculate the proper date for each requirement based on the date you choose for your election. Days are calendar days, unless the law specifically states otherwise. Those marked "approximate" are not legal deadlines but rather suggested dates to follow in order to meet other mandatory deadlines. The references in the side column are citations from the West Virginia Code or the Code of State Rules. Citations from Chapter 11 apply to excess levy elections; those from Chapter 13 apply to bond issues; all others apply to both. For municipal elections, the recorder performs the same duties listed for county clerks during a county election. (§3-1-2a, §8-5-6)

E is the date of the election.

E-(number) means the number of days prior to Election Day.

E+ (number) means the number of days after Election Day.

When your calculations result in the first or last day for an action falling on a Saturday, Sunday or legal holiday, the next business day shall be considered the proper time. (West Virginia Code §2-2-2)

<p>§18-9-1 §11-8-17 §13-1-4 §13-1-7</p>	<p>Governing body decides date of election, determines amount of funds needed and the purposes for which they are needed and delivers that information to the attorney preparing the official order for election. It is recommended that the order calling the special election be submitted to the Auditor's Office prior to adoption in order to eliminate potential problems.</p>
<p>§3-1-29 §3-1-30</p>	<p>Governing body notifies chairman of each political party executive committee of duties relating to nomination of election officials, including: (1) number of precincts for which election officials will be appointed, and (2) deadline for submitting nominations (E-70) for one commissioner and one clerk for each precinct, plus up to one alternate per precinct, and one or more emergency absentee voting commissioners.</p>

<p>JAN 1 or E-84 (whichever is earlier) Absentee ballot applications may be received by clerk from voters residing inside the United States, except voters defined by Uniformed and Overseas Absentee Voting Act of 1986. County commission notifies county executive committee of number of nominations for poll clerks and election commissioners. (E-84)</p>	<p>§3-3-2 §3-3-5 §3-1-29c</p>
<p>E-77 (approx.) Attorney gives proposed order calling the election to the appropriate person to be placed on the agenda for the governing body’s meeting on or before E-71.</p>	<p>§6-9A-3</p>
<p>E-71 (approx.) At a regular or special meeting, the governing body adopts an order set out as required by law for submitting the question to the voters at a regular or special election on _____, _____ (E-day).</p>	<p>§11-8-16 §13-1-4</p>
<p>E-70 (suggested) Copies of the order calling the election are delivered to the county clerk and the board of ballot commissioners. For board of education elections, the order is also delivered to the county commission, along with a request to obtain voting places for the election.</p>	
<p>E-70 (approx.) The county clerk determines the number of absentee ballots needed and notifies governing body for purposes of ordering ballots.</p>	<p>§3-3-2 §3-3-11</p>
<p>E-70 (last day) Democratic and Republican executive committees submit list of nominees for poll clerks, election commissioners and alternates to governing body.</p>	<p>§3-1-30</p>
<p>E-69 (approx.) Governing body contracts for ballot printing with an authorized printer. Specifications for ballot printing include size, paper quality, printing requirements for official, absentee and sample ballots, number, packaging and sealing for each precinct, and delivery to the county clerk.</p>	<p>§3-1-21a, §3-4A-11a §3-6-2 §11-8-17 §13-1-12</p>
<p>E-69 (approx.) Board begins to inform public about upcoming election through news releases and general announcements. (Legal publication calling the election required only within last two weeks before election. This is not the publication of the sample ballot.)</p>	<p>§11-8-17</p>

§3-1-22	<p>E-60 (approx.) In consultation with the clerk, the board orders and furnishes all election supplies to precincts and is responsible for canvass. For a special election, board must appoint election commissioners and clerks.</p>
§3-3-5c(b)	<p>E-56 (last day) Notice of number of sets of emergency absentee voting commissioners needed.</p>
§3-1-30	<p>E-49 (last day) Governing body appoints eligible persons duly nominated by parties as election officials and emergency absentee commissioners, including two poll clerks and two election commissioners for each precinct, plus alternates. Governing body appoints one election commissioner of its own selection plus additional alternates. Teams of poll clerks and commissioners must consist of two persons of opposite political parties. Other party or nonpartisan voters are eligible to serve in elections if nominated by one of the political parties. Remember, in municipal elections, even though there are only 4 pollworkers, they must still work in teams of different state political parties.</p>
§3-1-30h	<p><u>Within 7 days following appointment</u> -- Notice of appointment and response form mailed to appointed election officials. <u>Within 14 days following appointment</u> -- Appointed election officials return response notice or otherwise confirm willingness to serve; failure to respond creates vacancy to be filled by alternates as specified by law.</p>
§3-3-11	<p>E-46 (last day) Printer delivers absentee ballots, or absentee ballot cards and ballot labels for electronic voting systems, and other supplies necessary for absentee voting to the clerk.</p>
§3-3-2 §3-3-5	<p>E-46 _____ (first day) Absentee ballots mailed to overseas and military voters from whom applications for all ballots in an election year were received after January 1 of the current calendar year, or less than 84 days before the election, whichever is earlier.</p>
§3-3-1 §3-3-2 §3-3-5	<p>E-46 to E-6 (last day) Absentee ballots mailed to voters making proper written application to clerk and qualified to vote absentee by mail. Absentee ballot must be mailed to voter within 24 hours of receiving application.</p>

<p>E-26 to E-20 (first day to last day) First publication of the sample ballot as a Class I-0 legal advertisement. (See E-14 and E-7 for other publication requirements.)</p>	<p>§3-6-3 §59-3-2</p>
<p>E-21 (last day) Voter registration received at the county clerk’s office in order to be eligible to vote in election. Last day for postcard registration to be postmarked by U.S. Postal Service for special election. Corrections to essentially complete postcard registrations received before the deadline may be made within four days after close of registration. Registration of eligible persons who will not turn 18 years old by the date of the special election may be accepted but may not be entered into active rolls for special election.</p>	<p>§3-2-6</p>
<p>E-13 to E- 3 (first day to last day) Early voting in person in the clerk’s office conducted for any voter desiring to vote early.</p>	<p>§3-3-3</p>
<p>E-14 to E-8 (first day to last day) Notice of election published as a Class II-0 legal advertisement.</p>	<p>§11-8-17 §13-1-8</p>
<p>E-30 to E-7 (last day) Election officials attend training session; training film appropriate to ballot system must be shown; all officials are required to attend. (Make-up sessions may be conducted later.)</p>	<p>§59-3-2 §3-1-46</p>
<p>E-8 or Inspection date-3 (last day, whichever is earlier) Where electronic voting system used, notice of place and time of inspection of voting devices and ballots published as Class I-0 legal advertisement. (NOTE: This must be done prior to early voting period also.)</p>	<p>§3-4A-13</p>

§3-4A-13	<p>E-7 (last day) County clerk notifies county commission that voting devices and ballots are ready for use.</p>
§3-4A-13	<p>E-5 (last day) Inspection of voting devices and ballots conducted.</p>
§3-4A-26	<p>E-7 (specific day--"One week prior to...the counting of the votes") Testing of automatic tabulating equipment held in counties using electronic voting.</p>
§3-4A-26	<p>E-3 days - E-48 hours (earliest to latest time) Notice of testing of automatic tabulating equipment published as Class I-0 legal advertisement. The governing body certifies results immediately following test.</p>
§3-6-3 §59-3-2	<p>E-7 to E-1 (on last day of publication of newspaper before election) Notice of election published as a Class II-0 legal advertisement. Issue(s) to be placed on ballot published as a Class I-0 legal advertisement. This publication may be of the sample ballot.</p>
§3-3-1 §3-3-2 §3-3-5c	<p>E-7 to E-day at noon (earliest to latest time for request) Voter hospitalized on election day and unable to vote in person at the polls may request emergency absentee ballot. (Immediate family members or hospital staff may make request on behalf of such voter. This service is for the patient ONLY. It does not extend to family members.) Where county commission has extended services to nursing homes, voter, immediate family member or nursing home staff may request services.</p>
§3-3-5c	<p>After request received - until close of polls Two emergency commissioners take application and ballot to hospital within county. If by 90 days before election county commission adopted policy extending emergency absentee voting to hospitals and/ or nursing homes in adjacent counties or within 35 miles, same service is provided.</p>
§3-3-5	<p>E-6 (last day) Last day application for absentee ballot by mail may be accepted; ballot to be mailed within 24 hours of receiving application.</p>
§3-3-3	<p>E-3 (last day) Early voting in person at the clerk's office concludes at close of business. If date is Saturday, until 5:00 p.m.</p>

<p>E-1 (last day) Election supply commissioners appear at the county clerk’s office to pick up ballots and election supplies. Hand-delivered absentee ballot by mail may be accepted, but one person may hand-deliver no more than two ballots.</p>	<p>§3-1-24 §3-3-5</p>
<p>Election Day <u>5:45 a.m.</u> Election officials must appear at polls by this hour. Remaining officials contact county clerk for assistance in filling vacancy of any person not appearing. <u>6:30 a.m. to 7:30 p.m.</u> Polls are open. Paper ballots -- Votes are counted at the polls, one copy of results posted at the precinct, one copy each to the county clerk and secretary of state; in school elections, additional copy to board of education. Electronic voting counties -- Ballots are counted at the central counting center, with a summary of results posted publicly. Equipment tested and certified before and after tabulation. Absentee ballots received electronically accepted from military and overseas voters until close of polls on election day.</p>	<p>§3-1-30 §3-1-31 §3-6-6 §3-6-8 §3-4A-27 §3-3-5</p>
<p>E + 1 Ballots returned by the U.S. mail or other express shipping services are to be accepted if received no later than the day after the election.</p>	<p>§3-3-5</p>
<p>E+5 (Not counting Sunday) (specific day to begin canvass) The board of canvassers convenes to canvass the returns of the levy election and to consider provisional ballots, if any. Procedures for canvassing are prescribed by the Secretary of State. Absentee ballot postmarked by U.S. Postal Service on or before election day may be counted if received by beginning of canvass. Postmark is not required for military voter if received in time for canvass.</p>	<p>§3-6-9 §11-8-17 §13-1-13</p>
<p>For elections called by the board of education, a quorum of the county commission is required to conduct canvass. NEW Law (HB 4302) For elections called by municipalities, a quorum of the governing body is required to conduct canvass. If quorum not present at any time, the canvass is recessed until next day, and so on each day until the canvass is completed. At conclusion of canvass, results of election are declared.</p>	<p>§11-8-17 §13-1-3</p>
<p>Declaration + 48 hours If no request for recount has been filed within 48 hours after declaration of results, board of canvassers meets and certifies election results. If request for recount is filed within 48 hours after the declaration, board of canvassers should give public notice of the request for a recount and allow others to file a notice of intent to preserve their rights to a recount within 24 hours of the public notice. The recount should be scheduled no sooner than three days after the expiration of the 24-hour period. After the recount is conducted, the board of canvassers certifies the results.</p>	<p>§3-6-9</p>

Political Activity in Special Issue Elections

Governing bodies should take particular care that groups advocating the passage of levies or bonds operate strictly within the law, and that the governing body and its employees not use public funds, time or materials to advocate the passage of the issue. Allegations of the violation of election laws surrounding campaigns for passage or defeat of levies and bonds create serious problems in the community.

Political Activity by Citizens

1. Groups of citizens intending to spend funds to advocate or oppose the levy or bond issue are NOT required to form a political committee. Therefore, they are not required to file reports with the county or municipally in charge of the election.
2. An individual alone, or a single company, may make independent expenditures on ads or materials.

All advertisements in print, radio or television media and all brochures, flyers, printed signs or stickers or other printed materials distributed in support or against an issue are not required to include a disclaimer.

Activity by the Governing Body Relating to the Election

1. The governing body may provide information about the upcoming bond or levy, but the body must carefully review all proposed materials and procedures for distribution to insure public funds are not improperly used.
 - a. Information about a levy or bond which implies or states a position supporting a levy or bond issue may not be paid for out of public funds.
 - b. The governing body may provide, at public expense, strictly factual information about the amount of funds to be raised, the purposes for which those funds will be used, and the effect of the levies on bonds on tax rates. However, the use of terms or phrases such as “improved services”, “better programs”, “more competitive salaries”, “high quality facilities”, imply a position of support for the passage of the issue. Also, suggestions about what will be lost if the issue fails, such as “fewer free textbooks” or “reduced ambulance service” also imply a position on the issue.
 - c. Advocacy information prepared and published at the expense of a registered political committee should not be sent home to parents through school children or otherwise distributed at public expense. Strictly factual information may be distributed, but it is wise to consider carefully the ramifications and potential public reaction if this material could in any way be interpreted as biased.
2. Publication using equipment belonging to the governing body should not be allowed to be used by pro-issue committees on a reimbursement cost basis unless similar printing services are available to the public, including anti-issue committees.
3. County/city employees, teachers and school service personnel may not be released during their regular business hours to work for passage of the issue or to attend meetings on behalf of passage. This is using public funds to advocate the passage of an issue.
4. County/city or board of education facilities may only be used for meetings by groups advocating the passage of the issue if the same facilities are available under the same rules for meetings by groups opposing the issue.

If you have questions or need additional information regarding any of the topics covered in this booklet, contact:

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