WEST VIRGINIA CODE: §22C-4A-3

§22C-4A-3. Referendum for approval of conversion of a Class B facility to a Class A facility.

(a) The purpose of the petition and referendum for approval of conversions of Class B facilities to Class A facilities is to allow the local community an opportunity to participate in the decision of whether the local infrastructure and environment are appropriate for expansion of a Class B facility to a Class A facility, and to assure that the local community accepts the associated benefits and detriments of having a Class A facility located in their county.

(b) Within 21 following receipt of a certificate of need from the Public Service Commission as required by §24-2-1c of this code, and local solid waste authority approval as required in §22C-4-26 of this code, the county commission shall complete publication of a Class II legal advertisement in compliance with the provisions of §59-3-1 *et seq*. of this code, in the qualified newspaper of general circulation in the county wherein the solid waste facility is located. Registered voters residing in the county may petition the county commission to place the issue of whether a Class B facility be expanded to a Class A facility be placed on the ballot at the next primary or general election held not less than 100 days after the deadline for filing the petition. The petition shall be in writing, in the form prescribed by the Secretary of State, and shall include the printed name, residence address, and date of birth of each person whose signature appears on the petition. The petition shall be filed with the county commission not less than 60 days after the last date of publication of the notice provided in this section. Upon receipt of completed petition forms, the county commission shall immediately forward those forms to the clerk of the county commission for verification of the signatures and the voter registration of the persons named on the petition. If a primary or general election is scheduled not more than 120 days and not less than 100 days following the deadline for filing the petitions, the clerk of the county commission shall complete the verification of the signatures within 30 days and shall report the number of valid signatures to the county commission. In all other cases, the clerk of the county commission shall complete verification in a timely manner. Upon verification of the signatures of registered voters residing in the county equal to not less than 15 percent of the number of votes cast within the county for Governor at the preceding gubernatorial election, and not less than 70 days before the election, the county commission shall order a referendum be placed upon the ballot:

(1) Such referendum is to determine whether it is the will of the voters of the county that the Class B facility be converted to a Class A facility. Any election at which such question of locating a solid waste facility is voted upon shall be held at the voting precincts established for holding primary or general elections. All of the provisions of the general election laws, when not in conflict with the provisions of this article, apply to voting and elections hereunder, insofar as practicable. The Secretary of State shall prescribe the form of the

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petition which shall include the printed name, address and date of birth of each person whose signature appears on the petition. Should the petition fail to meet the requirements set forth above, the application process as set forth in this article and §22-15-1 *et seq*. of this code, may proceed.

(2) The ballot, or the ballot labels where voting machines are used, shall have printed thereon substantially the following:

"The West Virginia Legislature finds that expansion of a Class B solid waste facility to a Class A solid waste facility has impact to the county in which it will be located, and further that local citizens should be afforded the opportunity to participate in the decision of locating a Class A facility in their community. A Class A facility is authorized to receive between 10 and 30 thousand tons of solid waste per month. Fifteen percent of the registered voters in _____ county have signed a petition to cause a referendum to determine the following question:

The _____ county commission finds the following:

I. The _____ (name of applicant) has obtained site approval for a Class A commercial facility from the _____ (name of the county or regional solid waste authority). The authority has determined that the proposed landfill meets all local siting plan requirements. The local siting plan evaluates local environmental conditions and other factors and authorizes commercial landfills where a commercial landfill can be appropriately located.

II. The West Virginia Public Service Commission has issued a certificate of need, and has approved the operation of the Class A landfill. The Public Service Commission has determined that the landfill complies with the state solid waste management plan and that based on the anticipated volume of garbage expected to be received at the landfill, that the proposal is consistent with public convenience and necessity.

Please vote whether to approve construction of the facility by responding to the following question:

Shall the _____ solid waste facility, located within _____ County, West Virginia, be permitted to handle between 10 and 30 thousand tons of solid waste per month?

/ / For conversion of the facility

/ / Against conversion of the facility

(Place a cross mark in the square opposite your choice.)"

(3) If a majority of the legal votes cast upon the question is against the facility, then the Division of Environmental Protection shall not proceed any further with the application. If a

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majority of the legal votes cast upon the question be for the facility, then the application process as set forth in this article and §22-15-1 *et seq*. of this code may proceed: *Provided*, That such vote is not binding on nor does it require the Division of Environmental Protection to modify the permit. If the majority of the legal votes cast is against the question, the question may be submitted to a vote at any subsequent election in the manner herein specified: *Provided, however*, That the question may not be resubmitted to a vote until two years after the date of the previous referendum.

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