WEST VIRGINIA CODE: §3-3-8

§3-3-8. Disposition and counting of absent voters' ballots.

(a) In counties using paper ballots, all absentee ballots shall be processed as follows:

(1) The ballot boxes containing the absentee ballots shall be opened in the presence of the clerk of the county commission and two representatives of opposite political parties;

(2) The ballots shall be separated by precincts as stated on the sealed envelopes containing the ballots; and

(3) Absentee ballots shall be delivered to the polls to be opened and counted in accordance with section thirty-three, article one of this chapter, section fifteen, article five of this chapter; and section six, article six of this chapter. Disclosure of any results before the voting has been closed and the precinct returns posted on the door of the polling place shall be a per se violation of the oath taken by the counting board. In all other counties, counting is to begin immediately after closing of the polls.

(b) In counties using optical scan systems, the absentee ballots shall be processed as follows:

(1) On election day, the ballot boxes containing the absentee ballots shall be delivered to the central counting center and opened in the presence of the clerk of the county commission and two representatives of opposite political parties; and

(2) The absentee ballots shall be counted in accordance with section twenty-seven, article four-a of this chapter.

(c) In counties using direct recording elections systems, the absentee ballots shall be counted as follows:

(1) On election day, the ballot boxes containing the paper absentee ballots shall be delivered to the central counting center and opened in the presence of the clerk of the county commission and two representatives of opposite political parties; and

(2) Each absentee ballot shall be recorded on a direct recording voting terminal designated by the clerk of the county commission as the terminal for absentee tabulations, after being read aloud by a separate team of two representatives of opposite political parties; and

(3) The ballot shall be verified by both teams as being accurately printed on the paper receipt before the ballot is tabulated; and

(4) The appropriate election officials shall follow the procedures set out in subsections (a), (b), (d) and (e), section twenty-seven, article four-a of this chapter and subdivisions (3), (4), (5) and (6), subsection (c) of said section.

WV Legislature

(d) The provisional ballots shall be deposited in a provisional ballot envelope and delivered to the board of canvassers.

(e) Any election official who determines a person has voted an absent voter's ballot and has also voted at the polls on election day must report the fact to the prosecuting attorney of the county in which the votes were cast.

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