WEST VIRGINIA CODE CHAPTER 3 ARTICLE 3A

WV Legislature

§3-3A-1. Short title.

This article shall be known as the "West Virginia Vote By Mail Pilot Program".

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§3-3A-2. Vote by mail pilot program.

This article establishes a two phase pilot project that will allow certain municipalities to vote by mail. Phase one authorizes Class IV municipalities to conduct only early voting for municipal elections by mail beginning with the municipal election of 2010. Phase two authorizes five municipalities in the state to conduct all voting by mail beginning with the primary election of 2011. The pilot project will permit registered and other qualified voters of the authorized municipalities to vote a ballot by mail during the pilot program period. The Class IV municipalities that choose to participate in phase one may conduct only the early voting for the municipal elections entirely by mail. The five municipalities selected for participation in phase two may conduct both the primary and general elections entirely by mail.

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§3-3A-3. Secretary of State Rulemaking.

(a) The Secretary of State is hereby directed to propose emergency and legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code necessary to implement phase one of the vote by mail pilot program. In addition to any other provisions the Secretary believes are necessary to provide for the effective, efficient and orderly administration of phase one of the vote by mail pilot program, the rules proposed by the Secretary shall provide for phase one municipal elections the requirements and procedures for conducting an election by mail including:

(1) That a notice of early voting by mail will be mailed to each registered voter in the municipality no more than four weeks nor less than two weeks prior to the start of the early voting period. The notice may be included in any utility or service statement or invoice mailed to every household in the municipality or a postcard sent to all registered voters in the municipality;

(2) That each ballot packet shall consist of the actual ballot, instructions, a secrecy envelope and a ballot return envelope;

(3) That each ballot will be mailed with detailed instructions on how to mark the ballot, place it in the secrecy envelop and the ballot return envelope and how to sign the ballot return envelope, a warning that the ballot return envelope must be signed or the ballot will not be counted, a warning that signing someone else's ballot return envelope is illegal, an alternative procedure for any person who is unable to sign a ballot return envelope and a procedure for returning a spoiled ballot should the voter make a mistake or otherwise need a new ballot; and

(4) That each ballot must be mailed or brought to the municipal precinct by the close of the early voting period.

(b) The Secretary of State is hereby directed to propose legislative rules in accordance with the provisions of article three, chapter twenty-nine-a of this code necessary to implement the phase two vote by mail pilot program. In addition to any other provisions the Secretary believes are necessary to provide for the effective, efficient and orderly administration of phase two of the vote by mail pilot program, the rules proposed by the Secretary shall include:

(1) Criteria for the selection of up to five municipalities to participate in the vote by mail pilot program;

(2) Procedures for conducting voting by mail including those specified in subsection (a) of this section;

(3) Requirements and criteria for the designation of places of deposit for the ballots cast in an election; and

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(4) Dates and times the places of deposit must be open and the security requirements for the places of deposit. Places of deposit shall be open on the date of the election for a period of eight or more hours, but must be open until at least eight p.m., at a minimum.

(c) Each municipality wishing to conduct early voting by mail shall adopt an ordinance expressing the municipality's intent and notifying the public of the changes in voting.

(d) It is the duty of all officials designated to supervise and conduct the vote by mail program, other municipal officials, and all election commissioners and poll clerks to abide by the Secretary of State's rules, orders and instructions and to use the forms, lists and records prescribed by the Secretary of State.

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§3-3A-4. Authority to conduct voting by mail.

The voting by mail program is to be supervised and conducted by the municipal recorder or other officer authorized by charter or ordinance provisions to conduct voting for any election held entirely within the municipality. All other provisions of this article for conducting a municipal election shall apply.

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§3-3A-5. Termination of pilot project.

The provisions of this article related to phase two of the pilot project shall terminate on January 1, 2014, unless sooner terminated, continued or reestablished.

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