

No: 1536

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WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1985



ENROLLED

Com. Sub. for
HOUSE BILL No. 1536

(By ~~Mr.~~ Del. Fuller + Del Riffe)



Passed April 13, 1985

In Effect From Passage

ENROLLED
COMMITTEE SUBSTITUTE
FOR
H. B. 1536
(By DELEGATE FULLEN and DELEGATE RIFFLE)

[Passed April 13, 1985; in effect from passage.]

AN ACT to amend and reenact section two, article three, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended; and to amend and reenact section twenty-one, article four-a of said chapter, all relating to absentee voting procedures; qualifications to vote an absent voter's ballot by mail; qualifications to vote an absent voter's ballot by personal appearance at the office of the circuit clerk; absentee voting procedures in counties using electronic voting systems; circuit clerks in such counties to provide vote recording devices for absentee voting; absent voter ballot packets to be provided to voters qualified to vote an absent voter's ballot card by mail in such counties; procedure for voting and returning such absent voter ballot cards; duties of circuit clerks upon receipt of such absent voter ballot cards; duty of the election commissioners to determine legality of such absent voter ballot cards; and procedures for handling and processing of such absent voter ballot cards by the election officials at the polling place.

Be it enacted by the Legislature of West Virginia:

That section two, article three, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted; and that section twenty-one, article four-a of said chapter be amended and reenacted, all to read as follows:

ARTICLE 3. VOTING BY ABSENTEES.

§3-3-2. Absentee voting methods.

1 An absent voter's ballot may be voted by mail or by
2 personal appearance at the office of the clerk of the circuit
3 court as provided in this section.

4 Any person described in subdivisions (1), (2) and (4), section
5 one of this article may vote an absent voter's ballot by mail;
6 and any person described in subdivision (3), section one of this
7 article may vote an absent voter's ballot by mail if (a) his
8 application for an absent voter's ballot directs that the absent
9 voter's ballot be mailed to an out-of-county address, (b) the
10 envelope in which his absent voter's ballot is mailed is
11 postmarked at an address outside the county, or the voter
12 verifies by signature that he or she is mailing the absent voter's
13 ballot from outside the county, and (c) he or she is required
14 to be absent from the county in which he or she is registered
15 to vote during regular business hours of the office of the clerk
16 of the circuit court of said county throughout the period, or
17 throughout the remainder of the period, of voting an absent
18 voter's ballot by personal appearance at said clerk's office.

19 Any person described in subdivisions (2), (3) and (4), section
20 one of this article, and any person described in subdivision (1),
21 section one of this article whose physical disability on the date
22 of the election is anticipated by reason of commitment to a
23 hospital, institution or other confinement for childbirth or
24 other medical reasons, may vote an absent voter's ballot by
25 personal appearance at the office of the clerk of the circuit
26 court.

ARTICLE 4A. ELECTRONIC VOTING SYSTEMS.

§3-4A-21. Absent voter ballots; issuance processing and tabulation.

1 Absentee voters shall cast their votes on absent voter ballot
2 cards. If absentee voters shall be deemed eligible to vote in
3 person at the office of the clerk of the circuit court, in
4 accordance with the provisions of article three of this chapter,
5 the clerk of the circuit court of each county shall provide a
6 vote recording device for the use of such absentee voters. For
7 all absentee voters deemed eligible to vote an absent voter's
8 ballot card by mail, in accordance with the provisions of article
9 three of this chapter, the clerk of the circuit court of each

10 county shall prepare and issue an absent voter ballot packet
11 consisting of the following:

12 (a) One official absent voter ballot card;

13 (b) One punching tool;

14 (c) One disposable styrofoam block to be placed behind the
15 ballot card for voting purposes and to be discarded after use
16 by the voter;

17 (d) One absent voter instruction ballot;

18 (e) One absent voter's ballot envelope No. 1, unsealed,
19 which shall have no writing thereon and which shall be
20 identical to the secrecy envelope used for placement of ballot
21 cards at the polls; and

22 (f) One absent voter's ballot envelope No. 2, which envelope
23 shall be marked with the proper precinct number and shall
24 provide a place on its seal for the absent voter to affix his
25 signature. Such envelope shall also otherwise contain the forms
26 and instructions as provided in section five, article three of this
27 chapter, relating to the absentee voting of paper ballots.

28 Upon receipt of an absent voter's ballot card by mail, the
29 voter shall mark the ballot card with the punch tool and the
30 voter may receive assistance in voting his absent voter's ballot
31 card in accordance with the provisions of section six, article
32 three of this chapter.

33 After the voter has voted his absent voter's ballot card, he
34 shall (1) enclose the same in absent voter's ballot envelope No.
35 1, and seal that envelope, (2) enclose sealed absent voter's
36 ballot envelope No. 1 in absent voter's ballot envelope No. 2,
37 (3) complete and sign the forms, if any, on absent voter's ballot
38 envelope No. 2 according to the instructions thereon, and (4)
39 mail, postage prepaid, sealed absent voter's ballot envelope
40 No. 2 to the clerk of the circuit court of the county in which
41 he is registered to vote, unless the voter has appeared in
42 person, in which event he shall hand deliver the sealed absent
43 voter's ballot envelope No. 2 to the clerk.

44 Upon receipt of such sealed envelope, the circuit clerk shall
45 (1) enter onto the envelope such information as may be
46 required of him according to the instruction thereon; (2) enter
47 his challenge, if any, to the absent voter's ballot; (3) enter the

48 required information into a record of persons making
49 application for and voting an absent voter's ballot by personal
50 appearance or by mail (the form of which record and
51 information to be entered therein shall be prescribed by the
52 secretary of state); and (4) place such sealed envelope in a
53 secure location in his office, there to remain until delivered
54 to the polling place in accordance with the provisions of this
55 article or, in case of a challenged ballot, to the county
56 commission sitting as a board of canvassers.

57 When absent voters' ballots have been delivered to the
58 election board of any precinct, the election commissioners
59 shall, at the close of the polls, proceed to determine the legality
60 of such ballots as prescribed in article three of this chapter.
61 The commissioners shall then open all of the absent voter's
62 ballot envelopes No. 2 which contain ballots not challenged
63 and remove therefrom the absent voter's ballot envelopes No.
64 1. These ballot envelopes No. 1 shall then be shuffled and
65 intermingled. The election commissioners and poll clerks, in
66 the presence of each other, shall next open all of the absent
67 voter's ballot envelopes No. 1 and remove the ballots
68 therefrom. The poll clerks shall then affix their signatures
69 thereto as provided in section nineteen-a of this article. The
70 commissioners shall then insert each ballot card into a secrecy
71 envelope identical to the secrecy envelopes used for the
72 placement of ballot cards of voters who are voting in person
73 at the polls and shall deposit the ballot in the ballot box.


The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

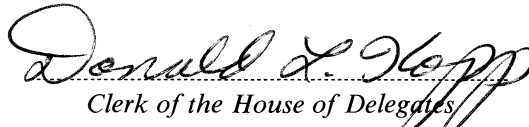

Chairman Senate Committee



Chairman House Committee

Originating in the House.


Takes effect from passage.


Clerk of the Senate


Clerk of the House of Delegates


President of the Senate


Speaker of the House of Delegates

The within  this the 2nd
day of _____, 1985.


Governor

PRESENTED TO THE

GOVERNOR

Date 4/19/85

Time 7:34 p.m.