

770. 186

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OFFICE OF WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1989



ENROLLED
Committee Substitute for
SENATE BILL NO. 186

(By Senator Chafin)



PASSED April 8, 1989

In Effect 90 days from Passage

ENROLLED

COMMITTEE SUBSTITUTE
FOR

Senate Bill No. 186

(SENATOR CHAFIN, *original sponsor*)

[Passed April 8, 1989; in effect ninety days from passage.]

AN ACT to amend and reenact sections five, five-c and ten, article three, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, all relating to voting by absentees; necessity for physician's and chiropractor's statements deleted in certain cases; more than four consecutive absentee ballots voted by mail as a result of being out of the county to be challenged; exceptions; authorizing county commissions to adopt a policy extending emergency absentee voting to health care facilities within an adjacent county or within thirty-five miles of the county seat; extending the time in which persons admitted to health care facilities may apply to vote an emergency absent voter's ballot; changing the method by which emergency absent voter's ballots may be applied for and voted; and updating certain terminology.

Be it enacted by the Legislature of West Virginia:

That sections five, five-c and ten, article three, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, be amended and reenacted, all to read as follows:

ARTICLE 3. VOTING BY ABSENTEES.

§3-3-5. Voting an absent voter's ballot by mail; federal postcard application.

1 A person desiring to vote an absent voter's ballot by
2 mail may, on or after the first day of January prior to
3 the date of any primary, general or special election in
4 the case of any person outside the continental limits of
5 the United States and not more than eighty-four days
6 prior to the date of any primary, general or special
7 election in the case of any other person, make appli-
8 cation by mail to the clerk of the circuit court of the
9 county in which he is registered to vote for an official
10 absent voter's ballot or ballots to be voted at such
11 election. The clerk of the circuit court shall not honor
12 any such application for an absent voter's ballot
13 received by him after the fourth day next preceding
14 the date of the election. In computing the fourth day,
15 the day of conducting the election shall be excluded.

16 When a clerk receives a completed application to
17 vote an absent voter's ballot by mail in more than one
18 election in an election year from an applicant eligible
19 to vote absentee under subsection (2), section one of
20 this article, the clerk shall, if all legal requirements
21 are met, forward to the applicant the appropriate
22 ballot or ballots for each election held within that
23 jurisdiction. The application to be used by persons who
24 wish to vote an absent voter's ballot by mail shall be
25 prescribed by the secretary of state and shall be in
26 substantially the following form:

27 "APPLICATION FOR VOTING AN ABSENT
28 VOTER'S BALLOT BY MAIL

29 KNOWING THAT I CAN BE FINED NOT MORE
30 THAN ONE THOUSAND DOLLARS OR IMPRI-
31 SONED IN THE COUNTY JAIL FOR A PERIOD OF
32 NOT MORE THAN ONE YEAR OR BOTH SUCH
33 FINE AND IMPRISONMENT FOR KNOWINGLY
34 MAKING A FALSE STATEMENT OR REPRESENTA-
35 TION HEREIN, I, _____,
36 hereby declare that I am now, or will have been a
37 resident of the state of West Virginia for twelve

38 months, and of the county of _____,
39 for thirty days, next preceding the date of the ensuing
40 election to be held on the _____ day of
41 _____, 19 ____; that I now reside at _____,
42 (give full address)

43 in the magisterial district of _____, in
44 said county; that I am a duly qualified voter entitled
45 to vote in such election; that I am registered in the
46 precinct of my residence as provided by law; that I am
47 registered as a _____;
48 (state political party if ballot is for primary election)
49 and that (strike out the numbered paragraphs not
50 applicable and complete the numbered paragraph
51 which is applicable):

52 (1) I will be unable to vote in person at the polls on
53 election day because of _____,
54 (state particulars of physical disability, illness or
55 injury).

56 (2) I anticipate commitment to a hospital, institution
57 or other confinement on or about the _____ day of
58 _____, 19____, for the following medical
59 reasons _____,
60 as evidenced below by the statement of a duly licensed
61 physician or chiropractor, and by reason thereof will
62 not be able to vote in person at the polls in such
63 election.

64 (3) I expect to be absent from the aforementioned
65 county in which I am registered to vote during the
66 entire time the polls are open in such election, and I
67 am (check one applicable):

68 A member of the armed forces in the active
69 service.

70 A spouse or dependent of a member of the armed
71 forces in active service.

72 A member of the merchant marine of the United
73 States.

74 A spouse or dependent of a member of the
75 merchant marine of the United States.

76 A citizen of the United States temporarily residing

77 outside the territorial limits of the United States and
78 the District of Columbia.

79 A spouse or dependent residing with or accompan-
80 ying a citizen of the United States temporarily residing
81 outside the territorial limits of the United States and
82 the District of Columbia.

83 (4) I am required to be absent from the aforemen-
84 tioned county in which I am registered during the
85 entire time the polls are open in such election for the
86 reason or reasons hereafter stated; I am not in any of
87 the categories referred to in paragraph (3) above; I am
88 required to be absent from said county during regular
89 business hours of the clerk of the circuit court of said
90 county throughout the period or throughout the
91 remainder of the period of voting an absent voter's
92 ballot by personal appearance at said office.

93 _____
94 _____
95 (state reason or reasons for required absence from
96 county on election.)

97 (5) I have been appointed _____
98 (state whether an election
99 commissioner or poll clerk)

100 in precinct No. _____ in said election, which
101 precinct is not the precinct in which I am registered
102 to vote.

103 (6) I will be incarcerated in the county or city jail or
104 other detention facility located in this county on
105 election day but am not under sentence of treason,
106 bribery or a felony, as evidenced below by the state-
107 ment of the county sheriff, chief of police or autho-
108 rized deputy.

109 In consideration of the foregoing qualifications, I
110 hereby make application for an official absent voter's
111 ballot (or ballots if more than one are to be used) to
112 be voted by me at such election, and request that such
113 ballot or ballots be mailed to me at the following
114 address: _____
115 (give full address for mailing purposes)

116 (Complete the following paragraph only if assistance

117 will be needed in voting absent voter's ballot):

118 I further declare that I will need assistance in voting
119 an absent voter's ballot for the following reasons _____

120 _____
121 _____

122 (specify illiteracy or exact nature of physical
123 disability, illness or injury)

124 I hereby declare under the penalties for false
125 swearing as provided in section three, article nine,
126 chapter three of the code of West Virginia, one
127 thousand nine hundred thirty-one, as amended, that
128 the statements and declarations contained in this
129 application are true and correct to the best of my
130 knowledge and belief.

131 _____
132 Signature of Applicant

133 _____
134 (or in case the applicant is illiterate he
135 shall make his mark and have it witnessed
136 on the following lines):

137 _____
138 Mark of Applicant

139 _____
140 Signature of Witness"

141 If the person applying for an absent voter's ballot by
142 mail be unable to sign his application because of
143 illiteracy, he shall make his mark on the signature line
144 above provided for an illiterate applicant which mark
145 shall be witnessed.

146 The following declaration must be completed and
147 signed if the reason specified in the above application
148 for being unable to vote in person at such election is
149 anticipated confinement in a hospital, institution or
150 other place for medical reasons.

151 "STATEMENT OF PHYSICIAN (CHIROPRACTOR)
152 I, _____, hereby declare
153 that I am a physician (chiropractor) duly licensed to
154 practice in the state of _____;

155 that I last examined _____,
156 the applicant whose signature appears on the applica-
157 tion above on the ____ day of _____,
158 19____; and that in my opinion:

159 The applicant will, because of _____
160 _____,
161 (state for what medical reasons)

162 be confined in _____,
163 (specify hospital, institution or other place)

164 on or about the ____ day of _____,
165 19____, and will because of such reasons not be able
166 to go to the polls on the ____ day of _____,
167 19____, the date of the election.

168 _____
169 Signature of Physician (Chiropractor)''

170 The following declaration must be completed and
171 signed if the reason specified in the above application
172 for being unable to vote in person at the election is
173 incarceration in a facility within the county for other
174 than conviction of treason, bribery or a felony:

175 "STATEMENT OF SHERIFF, CHIEF OF POLICE
176 OR AUTHORIZED DEPUTY

177 I, _____, hereby declare that
178 the applicant whose signature appears on the applica-
179 tion above will be confined in the county or city jail
180 or other detention facility on the _____ day of
181 _____, 19 _____, the date of the election, and
182 is not under conviction of treason, bribery or a felony.

183 _____
184 SIGNATURE

185 _____
186 TITLE

187 _____
188 COUNTY''

189 In lieu of the application for an absent voter's ballot

190 provided above, those persons specified in subsection
191 (2), section one of this article may use the federal
192 postcard application for absent voter's ballot form
193 issued under authority of the Uniformed and Overseas
194 Citizens Absentee Voting Act of 1986, as amended
195 (Public Law 99-410, 42 U.S.C. 1973, et seq.). Any such
196 federal postcard application does not have to be
197 executed pursuant to oath or attestation. Upon receipt
198 of a properly completed copy of such form, the clerk
199 of the circuit court shall process it the same as any
200 other application for an absent voter's ballot by mail.
201 Any such properly completed copy may be returned
202 only to the clerk of the circuit court of the county in
203 which the applicant is a registered voter.

204 Immediately upon receipt of a completed application
205 for voting an absent voter's ballot by mail, the clerk of
206 the circuit court shall determine (1) whether the
207 application for voting such ballot has been completed
208 as required by law; (2) whether he has evidence that
209 any of the statements contained in the application are
210 not true; (3) whether the applicant is in fact duly
211 registered in the precinct of his residence as provided
212 by law and insofar as registration is concerned would
213 be permitted to vote at the polls in such election; and
214 (4) whether the applicant has voted absentee by mail
215 as a result of being out of the county more than four
216 consecutive times: *Provided*, That the determination
217 as to whether the applicant has voted more than four
218 consecutive times shall not apply if the applicant is a
219 citizen residing out of the United States; or a member,
220 spouse or dependent of a member serving in the
221 uniformed services; or a college student living outside
222 his or her home county. If the determination of the
223 clerk of the circuit court as to (1) or (3) is in the
224 negative or as to (2) or (4) is in the affirmative, the
225 clerk shall notify the applicant at the time he mails
226 the absent voter's ballot to him that he will challenge
227 the applicant's privilege to vote an absent voter's
228 ballot by mail for reasons which he shall indicate and,
229 upon receipt of the applicant's absent voter's ballot,
230 the clerk shall challenge such ballot. If the challenge
231 is made under subdivision (4) above, such a challenge

232 shall be removed upon submission of proof of resi-
233 dence before the board of canvassers.

234 Upon determination by the clerk of the circuit court
235 that the applicant is entitled to vote an absent voter's
236 ballot by mail or that the applicant will be permitted
237 to vote an absent voter's ballot by mail with such
238 ballot to be challenged by the clerk, the clerk shall
239 between the forty-second day and the fourth day next
240 prior to the election in which the absent voter's ballot
241 is to be used, mail to the applicant the following
242 absentee voting supplies: *Provided*, That the clerk
243 shall mail such voting supplies to an applicant whose
244 address is shown to be outside the continental limits of
245 the United States by priority airmail on the same day
246 the application is received in the clerk's office or on
247 the next day thereafter that he has both an application
248 and a ballot:

249 (a) One official absent voter's ballot (or ballots if
250 more than one are to be used) which has been pre-
251 pared in accordance with law for use in such election;
252 such ballot in the case of a primary election shall be
253 of the party of the applicant's affiliation as indicated
254 on his registration card or, in the case the applicant is
255 not found to be registered by the clerk but votes a
256 ballot challenged by the clerk, the clerk shall send to
257 the applicant an absent voter's ballot of the party
258 designated by the applicant in his application;

259 (b) One Absent Voter's Ballot Envelope No. 1,
260 unsealed, which shall have no writing thereon except
261 the designation "Absent Voter's Ballot Envelope No.
262 1";

263 (c) One Absent Voter's Ballot Envelope No. 2,
264 unsealed;

265 (d) Notice that an absent voter's ballot returned
266 from outside the continental limits of the United
267 States must be mailed priority airmail; and

268 (e) Notice that absent voters' ballots must be
 269 received in the office of the clerk not later than the
 270 time of closing of the polls.

271 Upon receipt of an absent voter's ballot by mail, the
 272 voter shall mark the ballot and the voter may have
 273 assistance in voting his absent voter's ballot in accor-
 274 dance with the provisions of section six of this article.

275 After the voter has voted his absent voter's ballot,
 276 he shall (1) enclose the same in Absent Voter's Ballot
 277 Envelope No. 1, and seal that envelope, (2) enclose
 278 sealed Absent Voter's Ballot Envelope No. 1 in Absent
 279 Voter's Ballot Envelope No. 2 and seal that envelope,
 280 (3) complete and sign the forms, if any, on Absent
 281 Voter's Ballot Envelope No. 2 according to the instruc-
 282 tions thereon, and (4) mail, postage prepaid and, if
 283 from outside the continental limits of the United
 284 States, by priority airmail, the sealed Absent Voter's
 285 Ballot Envelope No. 2 to the clerk of the circuit court
 286 of the county in which he is registered to vote.

287 Upon receipt of such sealed envelope, the clerk shall
 288 (1) enter onto the envelope such information as may
 289 be required of him according to the instructions
 290 thereon; (2) enter his challenge, if any, to the absent
 291 voter's ballot; (3) enter the required information into
 292 a record of persons making application for and voting
 293 an absent voter's ballot by personal appearance or by
 294 mail or otherwise (the form of which record and the
 295 information to be entered therein shall be prescribed
 296 by the secretary of state); and (4) place such sealed
 297 envelope in a secure location in his office, there to
 298 remain until delivered to the polling place in accor-
 299 dance with the provisions of this article or, in case of
 300 a challenged ballot, to the county commission sitting as
 301 a body of canvassers.

**§3-3-5c. Procedures for voting an emergency absent voter's
 ballot by qualified voters.**

1 (a) Notwithstanding any other provision of this
 2 chapter, a person qualified to vote an absent voter's
 3 ballot, as defined in subsection (1), section one of this
 4 article, who is admitted, on or after the seventh day

5 next preceding the election, to a hospital or other duly
6 licensed health care facility within the county of their
7 residence for emergency medical treatment, and who
8 remains confined and is unable to vote at the polls on
9 election day, may vote an emergency absent voter's
10 ballot under the procedures established in this section.
11 The county commission may adopt a policy extending
12 the emergency absentee voting procedures to hospitals
13 or other duly licensed health care facilities within an
14 adjacent county or within thirty-five miles of the
15 county seat: *Provided*, That the policy shall be adopted
16 by the county commission at least ninety days prior to
17 the election that will be effected and a copy of such
18 policy shall be filed with the secretary of state.

19 (b) On or before the first Monday of the month next
20 preceding the date on which any election is to be held
21 the circuit clerk of each county shall notify the county
22 commission of the number of sets of emergency absent
23 voter ballot commissioners which he or she deems
24 necessary to perform the duties and functions herein-
25 after set forth.

26 (c) A set of emergency absent voter's ballot commis-
27 sioners at-large shall consist of two persons, appointed
28 by the county commission in accordance with the
29 procedure prescribed for the appointment of election
30 commissioners under the provisions of section twenty-
31 eight, article one of this chapter but without regard to
32 magisterial district or precinct. Emergency absent
33 voter's ballot commissioners shall have the same
34 qualifications and rights and take the same oath
35 required under the provisions of this chapter for
36 commissioners of elections. Such commissioners shall
37 be compensated for services and expenses in the same
38 manner as commissioners of election obtaining and
39 delivering election supplies under the provisions of
40 section forty-four, article one of this chapter.

41 (d) Upon request of the voter or a member of the
42 voter's immediate family, the circuit clerk upon
43 receiving a proper request for voting an emergency
44 absent voter's ballot no earlier than the seventh day
45 next preceding the election and no later than noon of

46 election day, shall supply to the emergency absent
47 voter's ballot commissioners the application for voting
48 an emergency absent voter's ballot and the balloting
49 materials. The emergency absent voter's ballot appli-
50 cation shall be prescribed by the secretary of state and
51 shall be in substantially the following form:

52 "APPLICATION FOR VOTING AN EMERGENCY
53 ABSENT VOTER'S BALLOT

54 KNOWING THAT I CAN BE FINED NOT MORE
55 THAN ONE THOUSAND DOLLARS AND IMPRI-
56 SONED IN THE COUNTY JAIL FOR A PERIOD OF
57 NOT MORE THAN ONE YEAR FOR KNOWINGLY
58 MAKING A FALSE STATEMENT OR REPRESENTA-
59 TION HEREIN, I, _____, hereby declare
60 that I am now, or will have been a resident of the
61 state of West Virginia for twelve months, and of the
62 county of _____, for thirty days next
63 preceding the date of the ensuing election to be held
64 on the ____ day of _____, 19____;
65 that I now reside at _____

66 _____,
67 (give full address)

68 in the magisterial district of _____, in said
69 county; that I am a duly qualified voter entitled to
70 vote in such election; that I am registered in the
71 precinct of my residence as provided by law; that I am
72 registered as a _____;

73 (1) I will be unable to vote in person at the polls on
74 election day because I have been confined in

75 _____
76 _____

77 (State name and location of facility)

78 since _____
79 (State date of confinement commenced)

80 because of _____
81 (State particulars of illness or injury)

82 (2) My treating physician is _____

83 I hereby declare under the penalties for false
84 swearing as provided in section three, article nine,
85 chapter three of the code of West Virginia, one
86 thousand nine hundred thirty-one, as amended, that
87 the statements and declarations contained in this
88 application are true and correct to the best of my
89 knowledge and belief.

90 _____
91 Signature of Applicant

92 _____
93 (or in case the applicant is illiterate he
94 shall make his mark and have it witnessed
95 on the following lines):

96 _____
97 Mark of Applicant

98 _____
99 Signature of Witness"

100 If the person applying for an emergency absent
101 voter's ballot be unable to sign his application because
102 of illiteracy, he shall make his mark on the signature
103 line above provided for an illiterate applicant which
104 mark shall be witnessed.

105 The following declaration is to be completed and
106 signed by each of the emergency absent voter's ballot
107 commissioners:

108 "STATEMENT OF EMERGENCY ABSENT VOTER'S
109 BALLOT COMMISSIONERS

110 We, _____ and _____, hereby
111 declare that we are the duly appointed emergency
112 absent voter's ballot commissioners and have met the
113 applicant, whose name appears on the application
114 above at his or her place of confinement on the ____
115 day of _____, 19____;
116 and that in our opinion, the applicant will, because of
117 an emergency medical confinement which commenced
118 at least seven days prior to the election, be unable to
119 go to the polls on the _____day of _____,
120 19____, the date of the election.

121 We have determined that the applicant has been
122 confined in _____

123 _____
124 (State name and location of facility)

125 since _____
126 (State date confinement commenced)

127 because of _____
128 (State particulars of illness or injury)

129 _____
130 (Date) (Signature of Emergency Absent Voter's
131 Ballot Commissioner)

132 _____
133 (Date) (Signature of Emergency Absent Voter's
134 Ballot Commissioner)''

135 (e) At least one of the emergency absent voter's
136 ballot commissioners receiving the balloting materials
137 shall sign a receipt which shall be attached to the
138 application form. Each of the emergency absent
139 voter's ballot commissioners shall deliver the mate-
140 rials to the absent voter, await his or her completion
141 of the application and then the ballot, and return the
142 same to the circuit clerk, and upon delivering the
143 application and the voted ballot to the circuit clerk,
144 sign an oath that no person other than the absent
145 voter voted the ballot. The application and the voted
146 ballot shall be returned to the circuit clerk prior to the
147 close of the polls on election day. Any ballots received
148 by the clerk after the time that delivery may reason-
149 ably be made but before the closing of the polls shall
150 be treated as challenged absent voters' ballots in
151 accordance with the provisions of section ten of this
152 article and in addition to those absent voters' ballots
153 subject to challenge as enumerated therein.

154 (f) Upon receiving the application and emergency
155 absent voter's ballot, the clerk of the circuit court shall
156 ascertain whether the application is complete and the
157 voter is properly registered to vote with the office of
158 the clerk of the county commission. If the voter is

159 found to be properly registered in the precinct shown
160 on the application, the ballot shall be delivered to the
161 precinct election commissioner pursuant to section
162 seven of this article. If the voter is found not to be
163 registered, then the ballot shall be challenged for that
164 reason or any other provided for in section ten of this
165 article.

166 (g) If either or both of the emergency absent voter's
167 ballot commissioners should refuse to sign any appli-
168 cation for voting an emergency absent voter's ballot,
169 then the voter shall be permitted to vote as an
170 emergency absent voter and any such ballot shall be
171 treated as a challenged absent voter's ballot in accor-
172 dance with the provisions of section ten of this article
173 and in addition to those absent voters' ballots subject
174 to challenge as enumerated therein.

175 (h) Any voter who receives assistance in voting an
176 emergency absentee voter's ballot shall comply with
177 the provisions of section six of this article. Any other
178 provisions of this chapter relating to absent voter's
179 ballots not altered by the provisions of this section
180 shall govern the treatment of emergency absent
181 voter's ballots.

§3-3-10. Challenging of absent voters' ballots.

1 The clerk of the circuit court may challenge an
2 absent voter's ballot on any of the following grounds:
3 (1) That the application for an absent voter's ballot has
4 not been completed as required by law; (2) that any
5 statement or declaration contained in the application
6 for an absent voter's ballot is not true; (3) that the
7 applicant for an absent voter's ballot is not registered
8 to vote in the precinct of his residence as provided by
9 law; (4) that the person voting an absent voter's ballot
10 by personal appearance in his office had assistance in
11 voting such ballot when the person was not qualified
12 for such voting assistance because (a) the affidavit of
13 the person who received such assistance does not
14 indicate a legally sufficient reason for such assistance,
15 or (b) the person who received such assistance did not
16 make an affidavit as required by this article, or (c) the

17 person who received such assistance is not so illiterate
18 as to have been unable to read the names on the ballot
19 or that he is not so physically disabled as to have been
20 unable to see or mark the absent voter's ballot; (5) that
21 the person who voted an absent voter's ballot by mail
22 and received assistance in voting such ballot, was not
23 qualified under the provisions of this article for such
24 assistance; and (6) that the person has voted absentee
25 by mail as a result of being out of the county more
26 than four consecutive times: *Provided*, That the
27 determination as to whether the person has voted
28 more than four consecutive times shall not apply if the
29 person is a citizen residing out of the United States; or
30 a member, spouse or dependent of a member serving
31 in the uniformed services; or a college student living
32 outside of his or her home county.

33 Any one or more of the election commissioners or
34 poll clerks in a precinct may challenge an absent
35 voter's ballot on any of the following grounds: (1) That
36 the application for an absent voter's ballot was not
37 completed as required by law; (2) that any statement
38 or declaration contained in the application for an
39 absent voter's ballot is not true; (3) that the person
40 voting an absent voter's ballot is not registered to vote
41 in the precinct of his residence as provided by law; (4)
42 that the signatures of the person voting an absent
43 voter's ballot as they appear on his registration record,
44 his application for an absent voter's ballot, and the
45 absent voter's ballot envelope are not in the same
46 handwriting; (5) that the absent voter's ballot does not
47 have thereon the official seal of the clerk of the circuit
48 court and all signatures of members of the board of
49 ballot commissioners; (6) that the person voting an
50 absent voter's ballot by personal appearance in the
51 office of the clerk of the circuit court had assistance in
52 voting such ballot when the person was not qualified
53 for such assistance because (a) the affidavit of the
54 person who received such assistance does not indicate
55 a legally sufficient reason for such assistance, or (b)
56 the person who received such assistance did not make
57 an affidavit as required by this article, or (c) the
58 person who received such assistance is not so illiterate

59 as to have been unable to read the names on the ballot
60 or that he was not so physically disabled as to have
61 been unable to see or mark the absent voter's ballot;
62 (7) that the person voted an absent voter's ballot by
63 mail and received assistance in voting such ballot
64 when not qualified under the provisions of this article
65 for such assistance; (8) that the person who voted the
66 absent voter's ballot voted in person at the polls on
67 election day; (9) that the person voted an absent
68 voter's ballot under authority of subdivision (3) of
69 section one of this article and is or was present in the
70 county in which he is registered to vote between the
71 opening and closing of the polls on election day; (10)
72 that the person who voted an absent voter's ballot had
73 died before election day; (11) that the person voted an
74 absent voter's ballot under authority of subdivision (1)
75 of section one of this article and was able to vote at the
76 polls on election day; and (12) on any other ground or
77 for any reason on which or for which the ballot of a
78 voter voting in person at the polls on election day may
79 be challenged.

80 Any registered voter in the county may challenge an
81 absent voter's ballot voted under authority of subdivi-
82 sion (3) of section one of this article on the ground that
83 the voter of such ballot is or was in the county in
84 which he is registered to vote between the opening
85 and closing of the polls on election day and may
86 challenge an absent voter's ballot voted under author-
87 ity of subdivision (1) of section one of this article on
88 the ground that the voter of such ballot was able to
89 vote at the polls on election day.

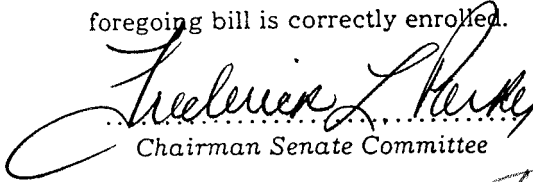
90 Forms for, and the manner of, challenging an absent
91 voter's ballot under the provisions of this article shall
92 be prescribed by the secretary of state.

93 Absent voters' ballots challenged by the clerk of the
94 circuit court under the provisions of this article shall
95 be transmitted by the clerk directly to the county
96 commission sitting as a board of canvassers; and the
97 absent voters' ballots challenged by the election
98 commissioners, poll clerks and registered voters of the
99 county under the provisions of this article shall not be

100 counted by the election officials but shall be
101 transmitted by them to the county commission sitting
102 as a board of canvassers. Action by the board of
103 canvassers on such challenged absent voters' ballots
104 shall be governed by the provisions of section forty-
105 one, article one of this chapter.

Enr. Com. Sub. For S. B. No. 186] 18


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

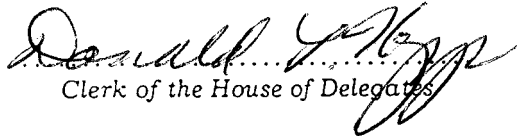

.....
Chairman Senate Committee

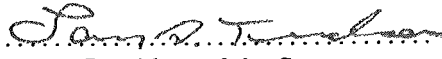

.....
Chairman House Committee

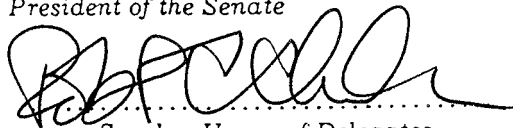
Originated in the Senate.

In effect ninety days from passage.


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Clerk of the Senate


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Clerk of the House of Delegates


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President of the Senate


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Speaker House of Delegates

The within is approved this the 27th
day of April 1989.


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Governor

PRESENTED TO THE

GOVERNOR

Date 4/25/89

Time 2:24