

LB 397

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SECRETARY OF STATE

# WEST VIRGINIA LEGISLATURE

REGULAR SESSION, 1998



# ENROLLED

SENATE BILL NO. 397

(By Senator WOOTEN, ET AL)



PASSED MARCH 14, 1998

In Effect FROM Passage

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SENATE OF WEST VIRGINIA

**ENROLLED**

**Senate Bill No. 397**

(BY SENATORS WOOTON, BALL, BOWMAN, DITTMAR, HUNTER,  
KESSLER, OLIVERIO, ROSS, SCHOONOVER, SNYDER,  
WHITE, DEEM AND SCOTT)

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[Passed March 14, 1998; in effect from passage.]

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AN ACT to amend section one, article three, chapter three of the code of West Virginia, one thousand nine hundred thirty-one, as amended, relating to authorizing certain replacement poll workers to vote emergency absentee ballots.

*Be it enacted by the Legislature of West Virginia:*

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

**ARTICLE 3. VOTING BY ABSENTEES.****§3-3-1. Persons eligible to vote absentee ballots.**

1 (a) Duly registered and otherwise qualified voters of the  
2 county who for authorized reasons as provided in this  
3 article are unable to vote in person at the polling place on  
4 the day of a primary, general or special election may vote  
5 an absentee ballot according to the provisions of this  
6 article.

7 (b) Voters in the following circumstances shall be  
8 authorized to vote an absentee ballot and shall be required  
9 to vote that absentee ballot in person in the office of the  
10 clerk of the circuit court during the period of regular  
11 absentee voting in person:

12 (1) Any voter who is within the county and physically  
13 able to vote in person during regular business hours of the  
14 clerk's office during the prescribed period for absentee  
15 voting but is unable to vote in person on election day  
16 because of: (A) Anticipated or scheduled commitment to  
17 a hospital, institution or other confinement for medical  
18 reasons; (B) absence from the county during the entire  
19 time the polls are open; (C) appointment as an election  
20 official in a precinct other than the one in which the voter  
21 is registered; or (D) the inaccessibility of the polling place  
22 to the voter because of his or her physical disability; and

23 (2) Any voter who is a member of a religious denomina-  
24 tion with an established history of observing Saturday as  
25 the Sabbath, when the election is scheduled to be held on  
26 Saturday.

27 (c) Voters in the following circumstances shall be  
28 authorized to vote an absentee ballot under special  
29 affidavit and shall be required to vote that absentee ballot  
30 in person in the office of the clerk of the circuit court  
31 during the period of special absentee voting in person:

32 Any voter who will be absent from the county through-  
33 out the regular period and available hours for voting in

34 person at the polls or at the clerk's office because of  
35 personal or business travel or employment, who will be  
36 unable to receive an absentee ballot by mail at an address  
37 outside the county during that absence, and who will be  
38 present within the county between the forty-second day  
39 before the election and the fifteenth day before the  
40 election.

41 (d) Voters in the following circumstances shall be  
42 authorized to vote an absentee ballot by mail:

43 (1) Any voter who is confined to a specific location and  
44 prevented from voting in person throughout the period of  
45 voting in person because of: (A) Illness, injury or other  
46 medical reason; (B) physical disability or immobility due  
47 to extreme advanced age; or (C) incarceration or home  
48 detention when not under conviction of a felony, treason  
49 or bribery in an election;

50 (2) Any voter who is absent from the county throughout  
51 the period and available hours for voting in person  
52 because of: (A) Personal or business travel; (B) attendance  
53 at a college, university or other place of education or  
54 training; or (C) employment which because of hours  
55 worked and distance from the county seat make voting in  
56 person impossible;

57 (3) Any voter absent from the county throughout the  
58 period and available hours for voting in person and who  
59 is an absent uniformed services voter or overseas voter, as  
60 defined by the Uniformed and Overseas Citizens Absentee  
61 Voting Act of 1986 (Public Law 99-410, 42 U.S.C. 1973, et  
62 seq.). Members of the uniformed services on active duty,  
63 members of the merchant marine, spouses and dependents  
64 of those members on active duty, and persons who reside  
65 outside the United States and are qualified to vote in the  
66 last place in which the person was domiciled before  
67 leaving the United States are included in the above  
68 definition;

69 (4) Any voter who is required to dwell temporarily  
70 outside the county and is absent from the county through-  
71 out the time for voting in person because of: (A) Serving  
72 as an elected or appointed federal or state officer; or (B)  
73 serving in any other documented employment assignment  
74 of specific duration of four years or less; and

75 (5) Any voter for whom both the office of the circuit  
76 clerk and the polling place are inaccessible to the voter  
77 because of his or her physical disability.

78 (e) Voters in the following circumstances shall be  
79 authorized to vote an emergency absentee ballot, subject  
80 to the availability of the services as provided in this  
81 article:

82 (1) Any voter who is admitted for emergency medical  
83 treatment on or after the seventh day next preceding the  
84 election and who anticipates continued confinement in a  
85 hospital or other duly licensed health care within the  
86 county of residence or other authorized area, as provided  
87 in this article;

88 (2) Any voter who resides in a nursing home within the  
89 county of residence and would be otherwise unable to vote  
90 in person, providing the county commission has autho-  
91 rized such services; and

92 (3) Any voter who is working as a replacement poll  
93 worker and is assigned a precinct out of his or her voting  
94 district, if the assignment was made after the period for  
95 voting an absentee ballot in person has expired.

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

*Randy Schowever*  
.....  
Chairman Senate Committee.

*Nick Fontana*  
.....  
Chairman House Committee

Originated in the Senate.

In effect from passage.

*Darrell A. White*  
.....  
Clerk of the Senate

*Bryony A. Gray*  
.....  
Clerk of the House of Delegates

*Earl Ray Tomblin*  
.....  
President of the Senate

*Richard H. Beitzel*  
.....  
Speaker House of Delegates

The within *approved* ..... this the *2<sup>nd</sup>* .....  
day of *April* ....., 1998.

*Lee R. Fisher*  
.....  
Governor

PRESENTED TO THE

GOVERNOR

Date

3/24/98

Time

3:10 pm