WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2009

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ENROLLED

COMMITTEE SUBSTITUTE
FOR
House Bill No. 2464

(By Delegates Spencer, Hatfield, Guthrie, M. Poling and Morgan)

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Passed April 10, 2009

In Effect Ninety Days from Passage
AN ACT to amend and reenact §3-3-2a of the Code of West Virginia, 1931, as amended, relating to early voting and authorizing county commissions to designate voting locations other than the county courthouse or annex of the courthouse; requiring the Secretary of State to propose legislative and emergency rules.

Be it enacted by the Legislature of West Virginia:

That §3-3-2a of the Code of West Virginia, 1931, as amended, be amended and reenacted to read as follows:

ARTICLE 3. VOTING BY ABSENTEES.

§3-3-2a. Early voting areas; prohibition against display of campaign material.
(a) The county commission shall designate the courthouse or annex to the courthouse as the primary location for early voting and in addition, the commission may designate other locations as provided in subsection (b).

(b) The county commission may, with the approval of the county clerk or other official charged with the administration of elections, and the written agreement of the chairpersons of the county executive committees of the two major political parties, designate additional locations for early voting other than the county courthouse or courthouse annex. The additional locations shall comply with the requirements of this article for early in-person voting and criteria prescribed by the Secretary of State.

(c) The Secretary of State is hereby directed to propose legislative and emergency rules in accordance with the provisions of article three, chapter twenty-nine-a of this code as may be necessary to implement the provisions of this section. The rules shall include establishment of criteria to assure neutrality and security in the selection of additional locations.

(d) Throughout the period of early in-person voting, the official designated to supervise and conduct absentee voting shall make the following provisions for voting:

  (1) The official shall provide a sufficient number of voting booths or devices appropriate to the voting system at which voters may prepare their ballots. The booths or devices are to be in an area separate from but within clear view of the public entrance area of the official’s office or other area designated by the county commission for absentee voting and are to be arranged to ensure the voter complete privacy in casting the ballot.
(2) The official shall make the voting area secure from interference with the voter and shall ensure that voted and unvoted ballots are at all times secure from tampering. No person, other than a person lawfully assisting the voter according to the provisions of this chapter, may be permitted to come within five feet of the voting booth while the voter is voting. No person, other than the officials or employees of the official designated to supervise and conduct absentee voting or members of the board of ballot commissioners assigned to conduct absentee voting, may enter the area or room set aside for voting.

(3) The official designated to supervise and conduct absentee voting shall request the county commission designate another area within the county courthouse, any annex of the courthouse or any other designated as early in-person voting locations within the county, as a portion of the official's office, for the purpose of absentee in-person voting in the following circumstances:

(A) If the voting area is not accessible to voters with physical disabilities;

(B) If the voting area is not within clear view of the public entrance of the office of the official designated to supervise and conduct absentee voting; or

(C) If there is no suitable area for absentee in-person voting within the office.

Any designated area is subject to the same requirements as the regular absentee voting area.

(4) The official designated to supervise and conduct absentee voting shall have at least two representatives to assist with absentee voting: Provided, That the two
representatives may not be registered with the same political
duty affiliation or two persons registered with no political
duty affiliation. The representatives may be full-time
employees, temporary employees hired for the period of
absentee voting in person or volunteers.

(5) No person may do any electioneering nor may any
person display or distribute in any manner, or authorize the
display or distribution of, any literature, posters or material
of any kind which tends to influence the voting for or against
any candidate or any public question on the property of the
county courthouse, any annex facilities, or any other
designated early voting locations within the county, during
the entire period of regular in-person absentee voting. The
official designated to supervise and conduct absentee voting
is authorized to remove the material and to direct the sheriff
of the county to enforce the prohibition.
That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman Senate Committee

Chairman House Committee

Originating in the House.

In effect ninety days from passage.

Clerk of the Senate

Clerk of the House of Delegates

President of the Senate

Speaker of the House of Delegates

The within happened this the 24th day of April, 2009.

Governor
PRESENTED TO THE GOVERNOR

APR 21 2009

Time 4:00 PM