

ENROLLED

COMMITTEE SUBSTITUTE

FOR

Senate Bill No. 391

(SENATORS PALUMBO, SNYDER, FOSTER, MCCABE,
BEACH, MINARD AND WELLS, *original sponsors*)

[Passed March 12, 2011; in effect from passage.]

AN ACT to amend and reenact §3-3-2a of the Code of West Virginia, 1931, as amended, relating to authorizing community voting locations; removing the requirement that chairpersons of executive committees approve community voting locations; requiring community voting locations to be open a minimum of five days; providing for locations on a rotating basis; establishing criteria for community voting locations; permitting chairpersons of executive committees to nominate locations; requiring publication of notices prior to the designation of locations; requiring publication of notices of the dates, times and places of community voting locations; and requiring community voting locations to be utilized an equal number of days and for the same number of hours.

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.

1 (a) The county commission shall designate the courthouse
2 or annex to the courthouse as the primary location for early
3 voting and in addition, the commission may designate other
4 locations as provided in subsection (b).

5 (b) The county commission may, with the approval of the
6 county clerk or other official charged with the administra-
7 tion of elections, designate community voting locations for
8 early voting, other than the county courthouse or courthouse
9 annex by a majority of the members of the county commis-
10 sion voting to adopt the same at a public meeting called for
11 that purpose.

12 (1) The county commission shall publish a notice of its
13 intent to designate community voting location at least thirty
14 days prior to the designation. Notice shall be by publication
15 as a Class II-0 legal advertisement in compliance with
16 provisions of article three, chapter fifty-nine of this code.
17 The publication area is the county in which the community
18 voting locations are designated;

19 (2) Community voting locations shall comply with require-
20 ments of this article for early in-person voting, criteria
21 prescribed by the Secretary of State and the following
22 criteria:

23 (A) can be scheduled for use during the early voting period;

24 (B) has the physical facilities necessary to accommodate
25 early voting requirements;

26 (C) has adequate space for voting equipment, poll workers,
27 and voters; and

28 (D) has adequate security, public accessibility, and park-
29 ing.

30 (3) The county executive committees of the two major
31 political parties may nominate sites to be used as community
32 voting locations during the early voting period;

33 (4) Upon the designation of a community voting location,
34 the county clerk shall, not less than thirty days prior to an
35 election, give notice of the dates, times, and place of commu-
36 nity voting locations by publication as a Class II-0 legal
37 advertisement in compliance with provisions of article three,
38 chapter fifty-nine of this code;

39 (5) Voting shall be conducted at each designated commu-
40 nity voting site for a period of not less than five consecutive
41 days during early in-person voting authorized by section
42 three of this article, but need not be conducted at each
43 location for the entire period of early in-person voting;

44 (6) The county commission, with the approval of the county
45 clerk, may authorize community voting locations on a
46 rotating basis, wherein a community voting location may be
47 utilized for less than the full period of early in-person voting;
48 and

49 (7) If more than one community voting location is desig-
50 nated, each location shall be utilized for an equal number of
51 voting days and permit voting for the same number of hours
52 per day.

53 (c) The Secretary of State shall propose legislative and
54 emergency rules in accordance with the provisions of article
55 three, chapter twenty-nine-a of this code as may be neces-
56 sary to implement the provisions of this section. The rules
57 shall include establishment of criteria to assure neutrality
58 and security in the selection of community voting locations.

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

62 (1) The official shall provide a sufficient number of voting
63 booths or devices appropriate to the voting system at which

64 voters may prepare their ballots. The booths or devices are
65 to be in an area separate from but within clear view of the
66 public entrance area of the official's office or other area
67 designated by the county commission for absentee voting and
68 are to be arranged to ensure the voter complete privacy in
69 casting the ballot.

70 (2) The official shall make the voting area secure from
71 interference with the voter and shall ensure that voted and
72 unvoted ballots are at all times secure from tampering. No
73 person, other than a person lawfully assisting the voter
74 according to the provisions of this chapter, may be permitted
75 to come within five feet of the voting booth while the voter
76 is voting. No person, other than the officials or employees of
77 the official designated to supervise and conduct absentee
78 voting or members of the board of ballot commissioners
79 assigned to conduct absentee voting, may enter the area or
80 room set aside for voting.

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

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

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

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

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

97 (4) The official designated to supervise and conduct
98 absentee voting shall have at least two representatives to
99 assist with absentee voting: *Provided*, That the two represen-
100 tatives may not be registered with the same political party
101 affiliation or two persons registered with no political party
102 affiliation. The representatives may be full-time employees,
103 temporary employees hired for the period of absentee voting
104 in person or volunteers.

105 (5) No person may do any electioneering nor may any
106 person display or distribute in any manner, or authorize the
107 display or distribution of, any literature, posters or material
108 of any kind which tends to influence the voting for or against
109 any candidate or any public question on the property of the
110 county courthouse, any annex facilities, or any other desig-
111 nated early voting locations within the county, during the
112 entire period of regular in-person absentee voting. The
113 official designated to supervise and conduct absentee voting
114 is authorized to remove the material and to direct the sheriff
115 of the county to enforce the prohibition.

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

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Chairman Senate Committee

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Chairman House Committee

Originated in the Senate.

In effect from passage.

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Clerk of the Senate

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Clerk of the House of Delegates

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Acting President of the Senate

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Speaker of the House of Delegates

The within this the
Day of, 2011.

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Governor