

**Senate Bill No. 350**

(By Senators Unger, Fitzsimmons and Beach)

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[Introduced February 22, 2013; referred to the Committee on the  
Judiciary.]  
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A BILL to amend and reenact §3-3-2a of the Code of West Virginia, 1931, as amended; and to amend and reenact §3-9-9 of said code, all relating to prohibiting electioneering within three hundred feet of the outside entrance to a building housing the polling place during designated hours when early in-person voting is conducted.

*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; and that §3-9-9 of said code be amended and reenacted, all to read as follows:

**ARTICLE 3. VOTING BY ABSENTEES.**

**§3-3-2a. Early voting areas.**

(a) The county commission shall designate the courthouse or annex to the courthouse as the primary location for early voting

1 and in addition, the commission may designate other locations as  
2 provided in subsection (b).

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

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

15 (2) Community voting locations shall comply with requirements  
16 of this article for early in-person voting, criteria prescribed by  
17 the Secretary of State and the following criteria:

18 (A) Can be scheduled for use during the early voting period;

19 (B) Has the physical facilities necessary to accommodate early  
20 voting requirements;

21 (C) Has adequate space for voting equipment, poll workers, and  
22 voters; and

23 (D) Has adequate security, public accessibility, and parking.

24 (3) The county executive committees of the two major political

1 parties may nominate sites to be used as community voting locations  
2 during the early voting period;

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

9       (5) Voting shall be conducted at each designated community  
10 voting site for a period of not less than five consecutive days  
11 during early in-person voting authorized by section three of this  
12 article, but need not be conducted at each location for the entire  
13 period of early in-person voting;

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

18       (7) If more than one community voting location is designated,  
19 each location shall be utilized for an equal number of voting days  
20 and permit voting for the same number of hours per day.

21       (c) The Secretary of State shall propose legislative and  
22 emergency rules in accordance with the provisions of article three,  
23 chapter twenty-nine-a of this code as may be necessary to implement  
24 the provisions of this section.       The rules shall include

1 establishment of criteria to assure neutrality and security in the  
2 selection of community voting locations.

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

6 (1) The official shall provide a sufficient number of voting  
7 booths or devices appropriate to the voting system at which voters  
8 may prepare their ballots. The booths or devices are to be in an  
9 area separate from but within clear view of the public entrance  
10 area of the official's office or other area designated by the  
11 county commission for absentee voting and are to be arranged to  
12 ensure the voter complete privacy in casting the ballot.

13 (2) The official shall make the voting area secure from  
14 interference with the voter and shall ensure that voted and unvoted  
15 ballots are at all times secure from tampering. No person, other  
16 than a person lawfully assisting the voter according to the  
17 provisions of this chapter, may be permitted to come within five  
18 feet of the voting booth while the voter is voting. No person,  
19 other than the officials or employees of the official designated to  
20 supervise and conduct absentee voting or members of the board of  
21 ballot commissioners assigned to conduct absentee voting, may enter  
22 the area or room set aside for voting.

23 (3) The official designated to supervise and conduct absentee  
24 voting shall request the county commission designate another area

1 within the county courthouse, any annex of the courthouse or any  
2 other designated as early in-person voting locations within the  
3 county, as a portion of the official's office, for the purpose of  
4 absentee in-person voting in the following circumstances:

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

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

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

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

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

21 ~~(5) No person may do any electioneering nor may any person~~  
22 ~~display or distribute in any manner, or authorize the display or~~  
23 ~~distribution of, any literature, posters or material of any kind~~  
24 ~~which tends to influence the voting for or against any candidate or~~

~~1 any public question on the property of the county courthouse, any  
2 annex facilities, or any other designated early voting locations  
3 within the county, during the entire period of regular in-person  
4 absentee voting. The official designated to supervise and conduct  
5 absentee voting is authorized to remove the material and to direct  
6 the sheriff of the county to enforce the prohibition.~~

7 **ARTICLE 9. OFFENSES AND PENALTIES.**

8 **§3-9-9. Other unlawful acts at polling places; penalties.**

9 No officer of election may disclose to any person the name of  
10 any candidate for whom a voter has voted. No officer of election  
11 may do any electioneering on election day or during designated  
12 hours when early in-person voting is conducted. No person may do  
13 any electioneering on election day or during designated hours when  
14 early in-person voting is conducted within any polling place, or  
15 within three hundred feet of the outside entrance to the building  
16 housing the polling place. No person may apply for or receive any  
17 ballot in any polling place, other than that in which ~~he~~ the person  
18 is entitled to vote, nor may any person examine a ballot which any  
19 voter has prepared for voting, or solicit the voter to show the  
20 same, nor ask, nor make any arrangement, directly or indirectly,  
21 with any voter, to vote an open ballot. No person, except a  
22 commissioner of election, may receive from any voter a ballot  
23 prepared by him or her for voting. No voter may receive a ballot  
24 from any person other than one of the poll clerks; nor may any

1 person other than a poll clerk deliver a ballot to a commissioner  
2 of election to be voted by such commissioner. No voter may deliver  
3 any ballot to a commissioner of election to be voted, except the  
4 one he or she receives from the poll clerk. No voter may place any  
5 mark upon his or her ballot, or suffer or permit any other person  
6 to do so, by which it may be afterward identified as the ballot  
7 voted by him or her. Whoever violates any provision of this  
8 section shall be guilty of a misdemeanor and, on conviction  
9 thereof, shall be fined not less than \$100 nor more than \$1,000, or  
10 confined in jail for not more than one year, or both fined and  
11 confined.

NOTE: The purpose of this bill is to prohibit electioneering within 300 feet of a polling place during designated hours when early in-person voting is conducted. This brings the electioneering prohibition for early in-person voting into conformity with the 300 feet electioneering prohibition on election day.

Strike-throughs indicate language that would be stricken from the present law, and underscoring indicates new language that would be added.