

# WEST VIRGINIA LEGISLATURE

## 2024 REGULAR SESSION

Introduced

### House Bill 5623

FISCAL  
NOTE

By Delegates W. Hall, Shamblyn, Rohrbach, DeVault,  
Stephens, Ferrell, Hite, Green, Steele, and Forsht

[Introduced February 12, 2024; Referred to the  
Committee on the Judiciary]

1 A BILL to amend and reenact §3-3-12 of the Code of West Virginia, 1931, as amended, relating to  
2 codifying existing policy of the Secretary of State regarding the verification of absentee  
3 ballots.

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

**ARTICLE 3. VOTING BY ABSENTEES.**

**§3-3-12. Rules, regulations, orders, instructions, forms, lists and records pertaining to  
absentee voting.**

1 (a) The Secretary of State shall make, amend and rescind rules, regulations, orders and  
2 instructions, and prescribe forms, lists and records, and consolidation of forms, lists and records  
3 as may be necessary to carry out the policy of the Legislature as contained in this article and as  
4 may be necessary to provide for an effective, efficient and orderly administration of the absentee  
5 voter law of this state. In the case of West Virginia voters residing outside the continental United  
6 States, the Secretary of State shall promulgate rules and regulations necessary to implement  
7 procedures relating to absentee voters contained in 42 U.S.C. §1973, *et seq.*, the Uniformed and  
8 Overseas Citizens Absentee Voting Act of 1986 and shall forward a copy of the act to all officials  
9 designated to supervise and conduct absentee voting before January 1, of each even-numbered  
10 year.

11 (b) The Secretary of State may establish special procedures to allow absentee voting for  
12 those categories of registered voters who, because of special circumstances, would otherwise be  
13 unable to vote in the election.

14 (c) It is the duty of all officials designated to supervise and conduct absentee voting, other  
15 county officers, and all election commissioners and poll clerks to abide by the rules, regulations,  
16 orders and instructions and to use the forms, lists and records which may include or relate to:

- 17 (1) The consolidation of the two application forms provided for in this article into one form;  
18 (2) The size and form of absent voter's ballot envelope nos. 1 and 2, and carrier envelopes;  
19 (3) The information which is to be placed on absent voter's ballot envelope no. 1 and the

20 forms and information which are to be placed on absent voter's ballot envelope no. 2;

21 (4) The forms and manner of making the challenges to absentee ballots authorized by this  
22 article;

23 (5) The forms of, information to be contained in, and consolidation of lists and records  
24 pertaining to applications for, and voting of, absentee ballots and assistance to persons voting  
25 absentee ballots;

26 (6) The supplying of application forms, envelopes, challenge forms, lists, records and other  
27 forms; and

28 (7) The keeping and security of voted absentee ballots in the office of the official  
29 designated to supervise and conduct absentee voting.

30 (d) The Secretary of State shall establish, acquire, or approve an early ballot verification  
31 system that indicates whether the voter's early ballot has been received and whether the early  
32 ballot has been verified and sent to be tabulated or rejected. The system shall be available on a  
33 website or mobile application. For each elector who votes by absent voter ballot at an election, the  
34 electronic security system described in subsection (d) must indicate all of the following:

35 (1) The date the officials designated to supervise and conduct absentee voting received  
36 the elector's absent voter ballot application.

37 (2) If the elector's absent voter ballot application was accepted, the date of the acceptance,  
38 and if the elector's absent voter ballot application was rejected, all of the following:

39 (A) A brief state of the reason for the rejection.

40 (B) Instructions for curing the issue with the elector's absent voter ballot application, along  
41 with the deadline for curing the issue with the elector's absent voter ballot application.

42 (C) If the issue with the elector's absent voter ballot application is cured by the elector and  
43 the absent voter ballot application is accepted by the officials designated to supervise and conduct  
44 absentee voting, an update that the elector's absent voter ballot application was accepted and the  
45 date of the acceptance.

46           (3) The date the officials designated to supervise and conduct absentee voting mailed or  
47 delivered the absent voter ballot to the elector, or for an absent uniformed services voter or  
48 overseas voter under §3-3-1(b)(3) of this code, the date the absent uniformed services voter's or  
49 overseas voter's official designated to supervise and conduct absentee voting mailed or  
50 electronically transmitted the absent voter ballot to the absent uniformed services voter or  
51 overseas voter.

NOTE: The purpose of this bill is to codify existing policy of the Secretary of State regarding the verification of absentee ballots.

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