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2009 APR 30 PM 4: 10

OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE
FIRST REGULAR SESSION, 2009

ENROLLED

**COMMITTEE SUBSTITUTE
FOR
House Bill No. 3134**

(By Delegates Fleischauer, Beach, Marshall,
Shook, Hunt, Frazier, Brown, Miley,
Longstreth, Lawrence and Manchin)

Passed April 10, 2009

In Effect Ninety Days from Passage

HB 3134

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H. B. 3134

(BY DELEGATES FLEISCHAUER, BEACH, MARSHALL,
SHOOK, HUNT, FRAZIER, BROWN, MILEY,
LONGSTRETH, LAWRENCE AND MANCHIN)

[Passed April 10, 2009; in effect ninety days from passage.]

AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article, designated §3-3A-1, §3-3A-2, §3-3A-3, §3-3A-4 and §3-3A-5, all relating to a voting by mail; creating a two phase vote by mail pilot program for municipalities; allowing class IV municipalities to conduct early voting in municipal elections by mail; requiring adoption of an ordinance; requiring the Secretary of State select five municipalities for a pilot project; allowing selected municipalities conduct municipal elections by mail; requiring emergency and legislative rules; setting forth criteria; granting authority to conduct voting by mail; and providing for termination of phase two of the pilot project.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new article, designated §3-3A-1, §3-3A-2, §3-3A-3, §3-3A-4 and §3-3A-5, all to read as follows:

ARTICLE 3A. VOTE BY MAIL PILOT PROGRAM.

§3-3A-1. Short title.

1 This article shall be known as the “West Virginia Vote
2 By Mail Pilot Program”.

§3-3A-2. Vote by mail pilot program.

1 This article establishes a two phase pilot project that will
2 allow certain municipalities to vote by mail. Phase one
3 authorizes Class IV municipalities to conduct only early
4 voting for municipal elections by mail beginning with the
5 municipal election of 2010. Phase two authorizes five
6 municipalities in the state to conduct all voting by mail
7 beginning with the primary election of 2011. The pilot
8 project will permit registered and other qualified voters of the
9 authorized municipalities to vote a ballot by mail during the
10 pilot program period. The Class IV municipalities that
11 choose to participate in phase one may conduct only the early
12 voting for the municipal elections entirely by mail. The five
13 municipalities selected for participation in phase two may
14 conduct both the primary and general elections entirely by
15 mail.

§3-3A-3. Secretary of State Rulemaking.

1 (a) The Secretary of State is hereby directed to propose
2 emergency and legislative rules in accordance with the
3 provisions of article three, chapter twenty-nine-a of this code
4 necessary to implement phase one of the vote by mail pilot
5 program. In addition to any other provisions the Secretary
6 believes are necessary to provide for the effective, efficient
7 and orderly administration of phase one of the vote by mail
8 pilot program, the rules proposed by the Secretary shall
9 provide for phase one municipal elections the requirements
10 and procedures for conducting an election by mail including:

11 (1) That a notice of early voting by mail will be mailed to
12 each registered voter in the municipality no more than four
13 weeks nor less than two weeks prior to the start of the early
14 voting period. The notice may be included in any utility or
15 service statement or invoice mailed to every household in the
16 municipality or a postcard sent to all registered voters in the
17 municipality;

18 (2) That each ballot packet shall consist of the actual
19 ballot, instructions, a secrecy envelope and a ballot return
20 envelope;

21 (3) That each ballot will be mailed with detailed
22 instructions on how to mark the ballot, place it in the secrecy
23 envelop and the ballot return envelope and how to sign the
24 ballot return envelope, a warning that the ballot return
25 envelope must be signed or the ballot will not be counted, a
26 warning that signing someone else's ballot return envelope is
27 illegal, an alternative procedure for any person who is unable
28 to sign a ballot return envelope and a procedure for returning
29 a spoiled ballot should the voter make a mistake or otherwise
30 need a new ballot; and

31 (4) That each ballot must be mailed or brought to the
32 municipal precinct by the close of the early voting period.

33 (b) The Secretary of State is hereby directed to propose
34 legislative rules in accordance with the provisions of article
35 three, chapter twenty-nine-a of this code necessary to
36 implement the phase two vote by mail pilot program. In
37 addition to any other provisions the Secretary believes are
38 necessary to provide for the effective, efficient and orderly
39 administration of phase two of the vote by mail pilot
40 program, the rules proposed by the Secretary shall include:

41 (1) Criteria for the selection of up to five municipalities
42 to participate in the vote by mail pilot program;

43 (2) Procedures for conducting voting by mail including
44 those specified in subsection (a) of this section;

45 (3) Requirements and criteria for the designation of
46 places of deposit for the ballots cast in an election; and

47 (4) Dates and times the places of deposit must be open
48 and the security requirements for the places of deposit.
49 Places of deposit shall be open on the date of the election for
50 a period of eight or more hours, but must be open until at
51 least eight p.m., at a minimum.

52 (c) Each municipality wishing to conduct early voting by
53 mail shall adopt an ordinance expressing the municipality's
54 intent and notifying the public of the changes in voting.

55 (d) It is the duty of all officials designated to supervise
56 and conduct the vote by mail program, other municipal
57 officials, and all election commissioners and poll clerks to
58 abide by the Secretary of State's rules, orders and instructions
59 and to use the forms, lists and records prescribed by the
60 Secretary of State.


§3-3A-4. Authority to conduct voting by mail.

1 The voting by mail program is to be supervised and
2 conducted by the municipal recorder or other officer
3 authorized by charter or ordinance provisions to conduct
4 voting for any election held entirely within the municipality.
5 All other provisions of this article for conducting a municipal
6 election shall apply.

§3-3A-5. Termination of Pilot Project.

1 The provisions of this article related to phase two of the
2 pilot project shall terminate on January 1, 2014, unless
3 sooner terminated, continued or reestablished.

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



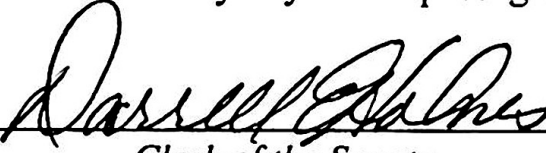
Chairman Senate Committee



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 is approved this the 30th
day of April, 2009.



Governor

PRESENTED TO THE
GOVERNOR

APR 29 2009

Time 11:25 AM