

1 **H. B. 2748**

2
3 (By Delegate Skaff)

4 [Introduced January 21, 2011; referred to the
5 Committee on the Judiciary.]
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10 A BILL to amend and reenact §3-3-2a and §3-3-3 of the Code of West
11 Virginia, 1931, as amended, all relating to the voting period
12 for early in-person voting and community voting locations for
13 early voting.

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

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

17 **ARTICLE 3. VOTING BY ABSENTEES.**

18 **§3-3-2a. Early voting areas; prohibition against display of**
19 **campaign material.**

20 (a) The county commission shall designate the courthouse or
21 annex to the courthouse as the primary location for early voting
22 and in addition, the commission may designate other locations as
23 provided in subsection (b).

24 (b) The county commission may, with the approval of the county
25 clerk or other official charged with the administration of
26 elections, ~~and the written agreement of the chairpersons of the~~

1 ~~county executive committees of the two major political parties~~
2 designate additional community voting locations for early voting
3 other than the county courthouse or courthouse annex. The
4 additional community voting locations shall comply with the
5 requirements of this article for early in-person voting and
6 criteria prescribed by the Secretary of State. Notwithstanding the
7 other requirement to early in-person voting, the county clerk may
8 authorize rotating community voting locations, wherein a community
9 voting location may be utilized for less than the full period of
10 early in-person voting. No order designating additional community
11 voting location for early voting other than the county courthouse
12 or courthouse annex shall be made by the county commission without
13 giving notice at least one month before the designation by
14 publication of the notice as a Class II-0 legal advertisement in
15 compliance with provisions of article three, chapter fifty-nine of
16 this code. The publication area is the county in which the
17 community voting locations shall be designated. The county
18 commission shall also, within fifteen days after the date of the
19 order, publish the order in the manner required for publication of
20 the notice. Any person claiming to be aggrieved by any order
21 entered by the county commission in this section, may, at any time
22 up to fifteen days after the entry of the order of the county
23 commission, appeal said order unto the circuit court of the county
24 in which said order was entered. Community voting locations are
25 valid until changed or appealed.

26 (c) The Secretary of State is hereby directed to propose

1 legislative and emergency rules in accordance with the provisions
2 of article three, chapter twenty-nine-a of this code as may be
3 necessary to implement the provisions of this section. The rules
4 shall include establishment of criteria to assure neutrality and
5 security in the selection of additional locations.

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

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

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

26 (3) The official designated to supervise and conduct absentee

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

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

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

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

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

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

22 (5) No person may do any electioneering nor may any person
23 display or distribute in any manner, or authorize the display or
24 distribution of, any literature, posters or material of any kind
25 which tends to influence the voting for or against any candidate or
26 any public question on the property of the county courthouse, any

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

6 **§3-3-3. Early voting in person.**

7 (a) The voting period for early in-person voting is to be
8 conducted during regular business hours beginning on the ~~twentieth~~
9 thirteenth day before the election and continuing through the third
10 day before the election. For any election held on a Tuesday, the
11 early voting period for in-person voting is to be available from
12 9:00 a.m. to 5:00 p.m. on the two Saturdays prior to the election.

13 (b) Any person desiring to vote during the period of early in-
14 person voting shall, upon entering the election room, clearly state
15 his or her name and residence to the official or representative
16 designated to supervise and conduct absentee voting. If that
17 person is found to be duly registered as a voter in the precinct of
18 his or her residence, he or she shall be required to sign his or
19 her name in the space marked "signature of voter" on the pollbook.
20 If the voter is unable to sign his or her name due to illiteracy or
21 physical disability, the person assisting the voter and witnessing
22 the mark of the voter shall sign his or her name in the space
23 provided. No ballot may be given to the person until he or she
24 signs his or her name on the pollbook.

25 (c) When the voter's signature or mark is properly on the
26 pollbook, two qualified representatives of the official designated

1 to supervise and conduct absentee voting shall sign their names in
2 the places indicated on the back of the official ballot.

3 (d) If the official designated to supervise and conduct
4 absentee voting determines that the voter is not properly
5 registered in the precinct where he or she resides, the clerk or
6 his or her representative shall challenge the voter's absentee
7 ballot as provided in this article.

8 (e) The official designated to supervise and conduct absentee
9 voting shall provide each person voting an absentee ballot in
10 person the following items to be printed as prescribed by the
11 Secretary of State:

12 (1) In counties using paper ballots, one of each type of
13 official absentee ballot the voter is eligible to vote, prepared
14 according to law;

15 (2) In counties using punch card systems, one of each type of
16 official absentee ballot the voter is eligible to vote, prepared
17 according to law, and a gray secrecy envelope;

18 (3) In counties using optical scan systems, one of each type
19 of official absentee ballot the voter is eligible to vote, prepared
20 according to law, and a secrecy sleeve; or

21 (4) For direct recording election systems, access to the
22 voting equipment in the voting booth.

23 (f) The voter shall enter the voting booth alone and there
24 mark the ballot: *Provided*, That the voter may have assistance in
25 voting according to the provisions of section four of this article.

26 After the voter has voted the ballot or ballots, the absentee voter

1 shall: Place the ballot or ballots in the gray secrecy envelope
2 and return the ballot or ballots to the official designated to
3 supervise and conduct the absentee voting: *Provided, however, That*
4 in direct recording election systems, once the voter has cast his
5 or her ballot, the voter shall exit the polling place.

6 (g) Upon receipt of the voted ballot, representatives of the
7 official designated to supervise and conduct the absentee voting
8 shall:

9 (1) Remove the ballot stub;

10 (2) Place punch card ballots and paper ballots into one
11 envelope which shall not have any marks except the precinct number
12 and seal the envelope;

13 (3) Place ballots for all voting systems into a ballot box
14 that is secured by two locks with a key to one lock kept by the
15 president of the county commission and a key to the other lock kept
16 by the county clerk;

17 (4) Due to the reenactment of this section by the Legislature
18 in the 2003 regular session removing authorization for early in-
19 person voting on the Monday prior to a Tuesday election, to assure
20 notice to all persons that voted on the Monday before the Tuesday
21 election day of the 2002 general election are made aware of this
22 change, the clerk of each county shall, for the primary election of
23 the year 2004, include along with the sample ballots published in
24 local newspapers as required by this chapter a notice to voters
25 that Monday in-person voting will no longer be available.

NOTE: The purpose of this bill is to allow community voting locations and shortening the time period for in-person early voting.

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