

# **WEST VIRGINIA LEGISLATURE**

## **2020 REGULAR SESSION**

**Introduced**

### **House Bill 4402**

BY DELEGATES ROBINSON, ROWE,  
GRAVES, ESTEP-BURTON, D. JEFFRIES, BARTLETT, SKAFF  
AND BYRD

[Introduced January 17, 2020; Referred to the  
Committee on Political Subdivisions then the  
Judiciary.]



1 A BILL to amend and reenact §3-3-2a of the Code of West Virginia, 1931, as amended, relating  
2 to designation of early voting locations; and allowing designations to carry over to  
3 subsequent elections under certain circumstances.

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

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

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

8 (1) The county commission shall publish a notice of its intent to designate community  
9 voting location at least 30 days prior to the designation. Notice shall be by publication as a Class  
10 II-0 legal advertisement in compliance with provisions of §59-3-1 *et seq.* of this code. The  
11 publication area is the county in which the community voting locations are designated.

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

- 14 (A) Can be scheduled for use during the early voting period;
- 15 (B) Has the physical facilities necessary to accommodate early voting requirements;
- 16 (C) Has adequate space for voting equipment, poll workers, and voters; and
- 17 (D) Has adequate security, public accessibility, and parking.

18 (3) The county executive committees of the two major political parties may nominate sites  
19 to be used as community voting locations during the early voting period.

20 (4) Upon the designation of a community voting location, the county clerk shall, not less  
21 than 30 days prior to an election, give notice of the dates, times, and place of community voting  
22 locations by publication as a Class II-0 legal advertisement in compliance with provisions of §59-  
23 3-1 *et seq.* of this code.

24 (5) Voting shall be conducted at each designated community voting site for a period of not  
25 less than five consecutive days during early in-person voting authorized by §3-3-3 of this code,  
26 but need not be conducted at each location for the entire period of early in-person voting.

27 (6) The county commission, with the approval of the county clerk, may authorize  
28 community voting locations on a rotating basis, wherein a community voting location may be  
29 ~~utilized~~ used for less than the full period of early in-person voting. ~~and~~

30 (7) If more than one community voting location is designated, each location shall be  
31 ~~utilized~~ used for an equal number of voting days and permit voting for the same number of hours  
32 per day; and

33 (8) Once a community voting location is designated it may continue to be used in  
34 subsequent elections without complying with the public notice requirements of subdivision (1) of  
35 this subsection if the county commission finds, and the county clerk agrees, at least 50 days, but  
36 not more than 80 days prior to the election, that the location continues to qualify under this section.

37 (c) The Secretary of State shall propose legislative and emergency rules in accordance  
38 with the provisions of §29A-3-1 *et seq.* of this code as may be necessary to implement the  
39 provisions of this section. The rules shall include establishment of criteria to assure neutrality and  
40 security in the selection of community voting locations.

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

43 (1) The official shall provide a sufficient number of voting booths or devices appropriate to  
44 the voting system at which voters may prepare their ballots. The booths or devices are to be in  
45 an area separate from but within clear view of the public entrance area of the official's office or

46 other area designated by the county commission for absentee voting and are to be arranged to  
47 ensure the voter complete privacy in casting the ballot.

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

55 (3) The official designated to supervise and conduct absentee voting shall request the  
56 county commission designate another area within the county courthouse, any annex of the  
57 courthouse or any other designated as early in-person voting locations within the county, as a  
58 portion of the official's office, for the purpose of absentee in-person voting in the following  
59 circumstances:

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

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

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

64 Any designated area is subject to the same requirements as the regular absentee voting  
65 area.

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

71           (5) No person may do any electioneering nor may any person display or distribute in any  
72 manner, or authorize the display or distribution of, any literature, posters or material of any kind  
73 which tends to influence the voting for or against any candidate or any public question on the  
74 property of the county courthouse, any annex facilities, or any other designated early voting  
75 locations within the county, during the entire period of regular in-person absentee voting. The  
76 official designated to supervise and conduct absentee voting is authorized to remove the material  
77 and to direct the sheriff of the county to enforce the prohibition.

NOTE: The purpose of this bill is to allow designated early voting locations to carry over to subsequent elections under certain circumstances.

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