

1 **H. B. 3133**

2
3 (By Delegate Campbell)

4 (By Request)

5 [Introduced March 25, 2013; referred to the
6 Committee on Education then the Judiciary.]

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10 A BILL to amend and reenact §3-3-1 of the Code of West Virginia,
11 1931, as amended, relating to voting by absentees; permitting
12 absentee voting by nonresident taxpayers on school levy or
13 school bond proposals; and providing responsibilities of
14 county boards of education with regard to the elections.

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

16 That §3-3-1 of the Code of West Virginia, 1931, as amended, be
17 amended and reenacted to read as follows:

18 **ARTICLE 3. VOTING BY ABSENTEES.**

19 **§3-3-1. Persons eligible to vote absentee ballots.**

20 (a) All registered and other qualified voters of the county
21 may vote an absentee ballot during the period of early voting in
22 person.

23 (b) Registered voters and other qualified voters in the county

1 are authorized to vote an absentee ballot by mail in the following
2 circumstances:

3 (1) Any voter who is confined to a specific location and
4 prevented from voting in person throughout the period of voting in
5 person because of:

6 (A) Illness, injury or other medical reason;

7 (B) Physical disability or immobility due to extreme advanced
8 age; or

9 (C) Incarceration or home detention: *Provided*, That the
10 underlying conviction is not for a crime which is a felony or a
11 violation of section twelve, thirteen or sixteen, article nine of
12 this chapter involving bribery in an election;

13 (2) Any voter who is absent from the county throughout the
14 period and available hours for voting in person because of:

15 (A) Personal or business travel;

16 (B) Attendance at a college, university or other place of
17 education or training; or

18 (C) Employment which because of hours worked and distance from
19 the county seat make voting in person impossible;

20 (3) Any voter absent from the county throughout the period and
21 available hours for voting in person and who is an absent uniformed
22 services voter or overseas voter, as defined by 42 U.S.C. §1973, *et*
23 *seq.*, the Uniformed and Overseas Citizens Absentee Voting Act of
24 1986, including members of the uniformed services on active duty,

1 members of the merchant marine, spouses and dependents of those
2 members on active duty and persons who reside outside the United
3 States and are qualified to vote in the last place in which the
4 person was domiciled before leaving the United States;

5 (4) Any voter who is required to dwell temporarily outside the
6 county and is absent from the county throughout the time for voting
7 in person because of:

8 (A) Serving as an elected or appointed federal or state
9 officer; or

10 (B) Serving in any other documented employment assignment of
11 specific duration of four years or less;

12 (5) Any voter for whom the designated area for absentee voting
13 within the county courthouse or annex of the courthouse and the
14 voter's assigned polling place are inaccessible because of his or
15 her physical disability; and

16 (6) Any voter who is participating in the Address
17 Confidentiality Program as established by section one hundred
18 three, article twenty-eight-a, chapter forty-eight of this code.

19 (c) Registered voters and other qualified voters in the county
20 may, in the following circumstances, vote an emergency absentee
21 ballot, subject to the availability of the services as provided in
22 this article:

23 (1) Any voter who is confined or expects to be confined in a
24 hospital or other duly licensed health care facility within the

1 county of residence or other authorized area, as provided in this
2 article, on the day of the election;

3 (2) Any voter who resides in a nursing home within the county
4 of residence and would be otherwise unable to vote in person,
5 providing the county commission has authorized the services if the
6 voter has resided in the nursing home for a period of less than
7 thirty days; and

8 (3) Any voter who is working as a replacement poll worker and
9 is assigned to a precinct out of his or her voting district, if the
10 assignment was made after the period for voting an absentee ballot
11 in person has expired.

12 (d) Notwithstanding any other provision of this code or law to
13 the contrary, persons who own property and are paying taxes on the
14 property but who do not live in the county where the property is
15 located may vote an absentee ballot during the period of early
16 voting in person or an absentee ballot by mail when a school levy
17 or school bond is being proposed.

18 The county board of education that is proposing a levy or bond
19 shall send property owners who live outside of the county a written
20 notice and postage prepaid envelop enclosed. The notice shall
21 advise the property owners of an upcoming school levy or bond
22 election their right to vote an absentee ballot on the issue. The
23 board shall include a form for the property owners to sign
24 indicating with either a "YES or NO" that the property owners want

1 an absentee ballot sent to them so their vote will counted on the
2 issue. Eligible nonresident voters shall be determined by the
3 records of the county assessor's office.

4 The board of education shall send to the out of county tax
5 payers any documents pertaining to a levy or bond that will explain
6 the process, from start to finish, including the times and
7 locations of any public forums that are going to be conduced by the
8 board of education. The board of education shall include in the
9 explanation how much of an increase will be added to their tax
10 statement if a levy of bond is passed. The board of education
11 shall contact the county clerk's office with the number of absentee
12 ballots that need to be sent. The board of education shall provide
13 a return postage paid envelope addressed to the county clerks
14 office in a timely matter so that every person's ballot will be
15 counted.

NOTE: The purpose of this bill is to permit absentee voting by nonresident taxpayers on school levy or school bond proposals. The bill also provides the responsibilities of county boards of education with regard to the elections.

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