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DELAWARE STATE SENATE  
152nd GENERAL ASSEMBLY

SENATE BILL NO. 3

AN ACT PROPOSING AN AMENDMENT TO ARTICLE V OF THE DELAWARE CONSTITUTION RELATING TO VOTING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE (Two-thirds of all members elected to each house thereof concurring therein):

1 Section 1. Amend § 4A, Article V of the Delaware Constitution by making deletions as shown by strike through  
2 and insertions as shown by underline as follows:

3 § 4A. General laws for absentee voting.

4 Section 4A. ~~The General Assembly shall enact general laws providing that any qualified elector of this State, duly~~  
5 ~~registered, who shall be unable to appear to cast his or her ballot at any general election at the regular polling place of the~~  
6 ~~election district in which he or she is registered, either because of being in the public service of the United States or of this~~  
7 ~~State, or his or her spouse or dependents when residing with or accompanying him or her because of the nature of his or her~~  
8 ~~business or occupation, because of his or her sickness or physical disability, because of his or her absence from the district~~  
9 ~~while on vacation, or because of the tenets or teachings of his or her religion, may cast a ballot at such general election to~~  
10 ~~be counted in such election district. (a) The General Assembly may enact general laws providing the circumstances, rules,~~  
11 ~~and procedures by which a qualified voter may vote by absentee ballot.~~

12 (b) A general law enacted under subsection (a) of this Section must include an oath or affirmation that the  
13 qualified voter's vote is free from improper influence.

14 Section 2. Amend § 3, Article V of the Delaware Constitution by making deletions as shown by strike through and  
15 insertions as shown by underline as follows:

16 § 3. Influencing voter; loss of vote; challenge; oath and affirmation; perjury.

17 Section 3. (a) No person who shall receive or accept, or offer to receive or accept, or shall pay, transfer, or deliver,  
18 or offer or promise to pay, transfer or deliver, or shall contribute, or offer or promise to contribute to another, to be paid or  
19 used, any money or other valuable thing as a compensation, inducement or reward for the registering or abstaining from  
20 registering of any one qualified to register, or for the giving or withholding, or in any manner influencing the giving or

21 withholding, a vote at any general or special or municipal election in this State, shall vote at such election; and upon  
22 challenge for any of said causes the person so challenged before the officers authorized for that purpose shall receive his or  
23 her vote, shall swear or affirm before such officers that he or she has not received or accepted, or offered to receive or  
24 accept, or paid, transferred or delivered, or offered or promised to pay, transfer or deliver, or contributed, or offered or  
25 promised to contribute to another, to be paid or used, any money or other valuable thing as a compensation, inducement or  
26 reward for the registering or abstaining from registering of any one qualified to register, or for the giving or withholding, or  
27 in any manner influencing the giving or withholding, a vote at such election.

28 Such oath or affirmation shall be conclusive evidence to the election officers of the truth of such oath or  
29 affirmation; but if any such oath or affirmation shall be false, the person making the same shall be guilty of perjury, and no  
30 conviction thereof shall bar any prosecution under Section 8 of this Article.

31 (b) The oath or affirmation required under Section 4A of this Article for voting by absentee ballot is in lieu of the  
32 oath or affirmation required under this Section.

#### SYNOPSIS

This Act is the first leg of a constitutional amendment to eliminate the limitations on when an individual may vote absentee and authorizes the General Assembly to enact general laws providing the circumstances, rules, and procedures for absentee voting in this State. This Act is in response to the Supreme Court's decision in *Albence v. Higgins*, 2022 Del. LEXIS 377 (Del. 2022).

This Act requires all absentee ballots to include an oath or affirmation that the qualified voter's vote is free from improper influence. This oath or affirmation is in lieu of the oath or affirmation required under Section 3 of Article V of the Delaware Constitution.

Amending the Delaware Constitution requires not only the passing of the changes in this Act, but also passage of the same changes after the next general election by the next General Assembly.

This Act requires a greater than majority vote for passage because § 1 of Article XVI of the Delaware Constitution requires the affirmative vote of two-thirds of the members elected to each house of the General Assembly to amend the Delaware Constitution.

Author: Senator Brown