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SENATE BILL NO. 485

Offered January 24, 2000

A *BILL to amend and reenact §§ 24.2-613 and 24.2-642 of the Code of Virginia, relating to ballots and voting equipment.*

Patrons—Miller, K.G.; Delegate: Dillard

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-613 and 24.2-642 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-613. Form of ballot.

The ballots shall be white paper without any distinguishing mark or symbol and shall contain the names of all the candidates qualifying to have their names printed on the official ballot as provided by law. Their names shall be printed in black ink, immediately below the office for which they have qualified as candidates. The names on the ballot shall be in clear print; each name shall be on a separate line; and the type used in printing the ballots shall be plain roman type, not smaller than twelve-point pica. Immediately to the left of and on the same line with the name of each candidate shall be printed a square, not less than one-quarter, nor more than one-half inch in size, printed thus:

JOHN DOE

However, the provisions of this title pertaining to ballot squares shall not be applicable to punchcard or mark sense ballots.

Except as provided for primary elections, the State Board shall determine by lot the order of the political parties, and the names of all candidates for a particular office shall appear together in the order determined for their parties. In an election district in which more than one person is nominated by one political party for the same office, the candidates' names shall appear alphabetically in their party groups under the name of the office, with sufficient space between party groups to indicate them as such. For the purpose of this section and § 24.2-640, except as provided for presidential elections in § 24.2-614, independent candidates shall be treated as a class under "Independent"; their names shall be placed on the ballot after the political parties; and where there is more than one independent candidate for an office, their names shall appear alphabetically.

No names of political parties shall appear on the ballot, except as provided in § 24.2-614 for presidential elections.

No individual's name shall appear on the ballot more than once for the same office.

In preparing the ballots for general, special and primary elections, the State Board and electoral boards shall cause to be printed in not less than ten-point type, immediately below the title of any office, a statement of the number of candidates who may be voted for for that office. The following language shall be used: "Vote for not more than"

At any precinct at which mark sense ballots are used, the mark sense ballot may be used in lieu of the official paper ballot with the approval of the State Board.

Any locality which uses mark sense ballots at one or more precincts, including any central absentee precinct, may, with the approval of the State Board, use the mark sense ballot or printed reproductions of the mark sense ballot in lieu of the official paper ballot. Such reproductions shall be printed and otherwise handled in accordance with all laws and procedures that apply to official paper ballots.

§ 24.2-642. Inoperative equipment.

A. When any voting or counting device becomes inoperative in whole or in part while the polls are open, the officers of election shall immediately notify the electoral board. If possible, the electoral board shall substitute a device in good order for the inoperative device, and at the close of the polls the record of both devices shall be taken, and the votes shown on their counters shall be added together in ascertaining the results of the election.

B. *In any precinct that uses a ballot that can be marked without the use of the counting device, if the counting device becomes inoperative and there is no other available counting device, the election shall continue, but the ballots shall be placed in a locked ballot box that is not a part of the counting device and is clearly labeled "uncounted ballots." If an operative counting device is available in the polling place after the polls have closed, such uncounted ballots shall be removed from the container and fed into the counting device, one at a time, by an officer of election in the presence of all persons who may be lawfully present at that time, but before the votes are determined pursuant to § 24.2-657. If such device is not available, the ballots may be counted manually.*

C. If (i) the inoperative device cannot be repaired in time to continue using it at the election, (ii) a

60 substitute device is needed to conduct the election but is not available for use, (iii) the supply of official
61 paper ballots, *or other official ballots that can be cast without use of the inoperative device*, is not
62 adequate, and (iv) the local electoral board approves, an officer of election may have copies of the
63 official paper ballot reprinted or reproduced by photographic, electronic, or mechanical processes for use
64 at the election. The voted ballot copies may be received by the officers of election and placed in the
65 ballot box and counted with the votes registered on the voting or counting devices; and the result shall
66 be declared the same as though no device has been inoperative. The voted ballot copies shall be deemed
67 official ballots for the purpose of § 24.2-665 and preserved and returned with the statement of results
68 and with a certificate setting forth how and why the same were voted. The officer of election who had
69 the ballot copies made shall provide a written statement of the number of copies made, signed by him
70 and subject to felony penalties for making false statements pursuant to § 24.2-1016, to be preserved with
71 the unused ballot copies.

72 *D. Any counting device in which counted ballots are stored may be opened one time while the polls*
73 *are open, between 2:00 p.m. and 4:00 p.m. on election day, for the purpose of removing counted ballots*
74 *that do not contain write-in votes. The chief officer of election and an officer of election of a different*
75 *party may (i) remove the device from use, but not from the polling place, in such a way as not to*
76 *expose the counters; (ii) open the storage compartment containing counted ballots on which no write-in*
77 *votes have been cast; (iii) remove all ballots not containing write-in votes from the storage compartment*
78 *and place such ballots in one or more envelopes or containers clearly labeled "counted ballots"; (iv)*
79 *seal such envelopes or containers and label the outside of each with the signatures of the participating*
80 *officers; and (v) reseal the ballot storage compartment and put the device back into use. The sealed*
81 *container of counted ballots must remain in the polling place, in plain view, until after the polls have*
82 *closed.*

83 *This procedure shall not be used unless it appears, based on the number of votes cast in that*
84 *precinct before 2:00 p.m., that the number of votes to be cast that day in that precinct will approach or*
85 *exceed the combined usable capacity of all the counting devices available for use in that precinct. The*
86 *electoral board must approve the opening of the device in advance.*

87 *Any representative of a candidate or party who is authorized to be present inside the polling place*
88 *before or while the polls are opened, or after the polls are closed, shall be permitted to witness the*
89 *opening of the device and the removal of the counted ballots.*