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## HOUSE BILL NO. 348

Offered January 14, 2004

Prefiled January 12, 2004

*A BILL to amend and reenact § 24.2-653 of the Code of Virginia, relating to voters whose names do not appear on pollbooks; conditional ballots.*

\_\_\_\_\_  
Patron—Albo

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Referred to Committee on Privileges and Elections

**Be it enacted by the General Assembly of Virginia:****1. That § 24.2-653 of the Code of Virginia is amended and reenacted as follows:**

§ 24.2-653. Voter whose name does not appear on pollbook; conditional ballots.

A. When a person offers to vote pursuant to § 24.2-652 and the general registrar is not available or cannot state that the person is registered to vote, then such person shall be allowed to vote by paper ballot in the manner provided in this section.

*In order for his vote to count, such person shall be required to present one of the following forms of identification: his Commonwealth of Virginia voter registration card; his social security card; his valid Virginia driver's license; any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; a current and valid photo identification; or a copy of a current utility bill, bank statement, government check, paycheck or other document that shows the name and address of the voter. It shall not be sufficient for the person to sign a statement subject to felony penalties for false statements pursuant to § 24.2-1016, that he is the named registered voter who he claims to be in lieu of presenting one of the listed forms of identification. In the case of a conditional vote cast, but not counted, due to the fact that the voter failed to provide one of the above listed acceptable forms of identification, any candidate contesting an election under the provisions of Article 2 (§ 24.2-803 et seq.) of Chapter 8 of this title will be allowed to prove during such proceedings that such conditional vote was cast by a voter otherwise entitled to vote under Virginia law.*

Such person shall be given a paper ballot and provide, subject to the penalties for making false statements pursuant to § 24.2-1016, on a green envelope supplied by the State Board, the identifying information required in § 24.2-652. ~~Such person shall be asked to present one of the forms of identification specified in subsection B of § 24.2-643. If he is unable to present one of these forms of identification, he shall sign a statement, subject to felony penalties for false statements pursuant to § 24.2-1016, that he is the named registered voter who he claims to be, and the officers of election shall note on the green envelope that the required statement was signed in lieu of presenting one of the specified forms of identification.~~ The officers of election shall enter the appropriate information for the person on the pollbook in accordance with the instructions of the State Board but shall not enter a consecutive number for the voter nor otherwise mark his name as having voted.

The voter shall then, in the presence of an officer of election, but in a secret manner, mark the ballot as provided in § 24.2-644 and seal it in the green envelope. The envelope containing the ballot shall then be placed in the ballot container by an officer of election.

An officer of election shall inform the voter that a determination of his right to vote shall be made by the electoral board on the following day and advise the voter of the beginning time and place for the board's meeting and of the voter's right to be present at that meeting. *In the case of a voter who does not provide one of the above listed acceptable forms of identification, the officer of election shall also inform the voter that unless he presents such identification to an officer of election at the polling place at which he is attempting to vote during the hours that the polling place is open or to the general registrar or electoral board of the locality prior to the time the board finishes meeting on the following day, his vote may not be counted.*

B. The conditional votes submitted pursuant to subsection A, in their unopened envelopes, shall be sealed in a special envelope marked "Conditional Votes," inscribed with the number of envelopes contained therein, and signed by the officers of election who counted them. All conditional votes envelopes shall be delivered either (i) to the clerk of the circuit court who shall deliver all such envelopes to the secretary of the electoral board or (ii) to the general registrar in localities in which the electoral board has directed delivery of election materials to the general registrar pursuant to § 24.2-668.

The electoral board shall meet on the day following the election and determine whether each person having submitted such a conditional vote was entitled to do so as a qualified voter in the precinct in which he offered the conditional vote. One authorized representative of each political party or

59 independent candidate in a general or special election or one authorized representative of each candidate  
60 in a primary election, who is a qualified voter of the city or county, shall be permitted to remain in the  
61 room in which the determination is being made so long as he does not impede the orderly conduct of  
62 the determination. Each authorized representative shall be a qualified voter of the county or city. Each  
63 representative, who is not himself a candidate or party chairman, shall present to the electoral board a  
64 written statement designating him to be a representative of the party or candidate and signed by the  
65 county or city chairman of his political party, the independent candidate, or the primary candidate, as  
66 appropriate. Such statement, bearing the chairman's or candidate's original signature, may be photocopied  
67 and such photocopy shall be as valid as if the copy had been signed.

68 If the electoral board determines that such person was not entitled to vote as a qualified voter in the  
69 precinct in which he offered the conditional vote, or is unable to determine his right to vote, the  
70 envelope containing his ballot shall not be opened and his vote shall not be counted. However, the  
71 conditional vote shall be counted if such person is entitled to vote in the precinct pursuant to § 24.2-401.  
72 The general registrar shall notify in writing pursuant to § 24.2-114 those persons found not properly  
73 registered. *In the case of a voter who does not provide one of the above listed acceptable forms of*  
74 *identification, the voter's conditional vote shall not be counted. However, the local electoral board may*  
75 *determine that such vote may be counted if, and only if, the reason the voter was required to vote a*  
76 *conditional ballot was due (i) to an officer of election erroneously failing to notice the voter's name in*  
77 *the registered voter list available at the polling place on the election day or (ii) due to the failure of the*  
78 *general registrar to enter the voter's registration information properly into the Virginia voter*  
79 *registration system.*

80 If the electoral board determines that such person was entitled to vote, the name of the voter shall be  
81 entered in a conditional votes pollbook and marked as having voted, the envelope shall be opened, and  
82 the ballot placed in a ballot container without any inspection further than that provided for in  
83 § 24.2-646.

84 On completion of its determination, the electoral board shall proceed to count such ballots and certify  
85 the results of its count. Its certified results shall be added to those found pursuant to § 24.2-671. No  
86 adjustment shall be made to the statement of results for the precinct in which the person offered to vote.

87 The certification of the results of the count together with all ballots and envelopes, whether open or  
88 unopened, and other related material shall be delivered by the electoral board to the clerk of the circuit  
89 court and retained by him as provided for in §§ 24.2-668 and 24.2-669.