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**SENATE BILL NO. 122**

Offered January 11, 2006

Prefiled January 10, 2006

A *BILL to amend and reenact §§ 24.2-101, 24.2-108, 24.2-111, 24.2-112, 24.2-114, 24.2-122, and 24.2-412 of the Code of Virginia and to repeal § 24.2-113 of the Code of Virginia, relating to electoral boards, general registrars, and their staffs and employees.*

Patron—O'Brien

Referred to Committee on Privileges and Elections

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 24.2-101, 24.2-108, 24.2-111, 24.2-112, 24.2-114, 24.2-122, and 24.2-412 of the Code of Virginia are amended and reenacted as follows:**

§ 24.2-101. Definitions.

As used in this title, unless the context requires a different meaning:

"Assistant Registrar" means a part-time employee or unpaid volunteer of the general registrar who may accept voter registration applications outside the office of the general registrar that will be considered as being submitted "in person" for the purposes of registering to vote.

"Candidate" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. "Candidate" shall include a person who seeks the nomination of a political party or who, by reason of receiving the nomination of a political party for election to an office, is referred to as its nominee. For the purposes of Chapters 8 (§ 24.2-800 et seq.), 9 (§ 24.2-900 et seq.), and 9.2 (§ 24.2-941 et seq.), "candidate" shall include any write-in candidate. However, no write-in candidate who has received less than 15 percent of the votes cast for the office shall be eligible to initiate an election contest pursuant to Article 2 (§ 24.2-803 et seq.) of Chapter 8. For the purposes of Chapters 9 (§ 24.2-900 et seq.) and 9.2 (§ 24.2-941 et seq.), "candidate" shall include any person who raises or spends funds in order to seek or campaign for an office of the Commonwealth, excluding federal offices, or one of its governmental units in a party nomination process or general, primary, or special election; and such person shall be considered a candidate until a final report is filed pursuant to Article 4 (§ 24.2-914 et seq.) of Chapter 9.

"Central absentee voter precinct" means a precinct established by a county or city pursuant to § 24.2-712 for the processing of absentee ballots for the county or city or any combination of precincts within the county or city.

"Constitutional office" or "constitutional officer" means a county or city office or officer referred to in Article VII, Section 4 of the Constitution of Virginia: clerk of the circuit court, attorney for the Commonwealth, sheriff, commissioner of the revenue, and treasurer.

"Deputy Registrar" means an employee of the general registrar who is designated by the general registrar pursuant to § 24.2-112 to temporarily assume his duties in the event of an emergency.

"Election" means a general, primary, or special election.

"Election district" means the territory designated by proper authority or by law which is represented by an official elected by the people, including the Commonwealth, a congressional district, a General Assembly district, or a district for the election of an official of a county, city, town, or other governmental unit.

"Electoral board" or "local electoral board" means a board appointed pursuant to § 24.2-106 to administer elections for a county or city. The electoral board of the county in which a town or the greater part of a town is located shall administer the town's elections.

"General election" means an election held in the Commonwealth on the Tuesday after the first Monday in November or on the first Tuesday in May for the purpose of filling offices regularly scheduled by law to be filled at those times.

"General Registrar" means a person appointed by the electoral board pursuant to § 24.2-110 and Section 8 of Article II of the Constitution who maintains the voter registration records for a county or city.

"Officer of election" means a person appointed by an electoral board pursuant to § 24.2-115 to serve at a polling place for any election.

"Party" or "political party" means an organization of citizens of the Commonwealth which, at either of the two preceding statewide general elections, received at least 10 percent of the total vote cast for any statewide office filled in that election. The organization shall have a state central committee and an

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59 office of elected state chairman which have been continually in existence for the six months preceding  
60 the filing of a nominee for any office.

61 "Polling place" means the one place provided for each precinct at which the qualified voters who are  
62 residents of the precinct may vote.

63 "Precinct" means the territory designated by the governing body of a county, city, or town to be  
64 served by one polling place.

65 "Primary" or "primary election" means an election held for the purpose of selecting a candidate to be  
66 the nominee of a political party for election to office.

67 "Qualified voter" means a person who is entitled to vote pursuant to the Constitution of Virginia and  
68 who is (i) 18 years of age, (ii) a resident of the Commonwealth and of the precinct in which he offers  
69 to vote, and (iii) registered to vote. No person who has been convicted of a felony shall be a qualified  
70 voter unless his civil rights have been restored by the Governor or other appropriate authority. No  
71 person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as  
72 provided by law.

73 "Qualified voter in a town" means a person who is a resident within the corporate boundaries of the  
74 town in which he offers to vote, duly registered in the county of his residence, and otherwise a qualified  
75 voter.

76 "Referendum" means any election held pursuant to law to submit a question to the voters for  
77 approval or rejection.

78 "Registered voter" means any person who is maintained on the Virginia voter registration system. All  
79 registered voters shall be maintained on the Virginia voter registration system with active status unless  
80 assigned to inactive status by a general registrar in accordance with Chapter 4 (§ 24.2-400 et seq.). For  
81 purposes of applying the precinct size requirements of § 24.2-307, calculating election machine  
82 requirements pursuant to Article 3 (§ 24.2-625 et seq.) of Chapter 6, mailing notices of local election  
83 district, precinct or polling place changes as required by subdivision 13 of § 24.2-114 and § 24.2-306,  
84 and determining the number of signatures required for candidate and voter petitions, "registered voter"  
85 shall include only persons maintained on the Virginia voter registration system with active status.

86 "Registration records" means all official records concerning the registration of qualified voters and  
87 shall include all records, lists, and files, whether maintained in books, on cards, on automated data  
88 bases, or by any other legally permitted record-keeping method.

89 "Residence" or "resident," for all purposes of qualification to register and vote, means and requires  
90 both domicile and a place of abode. In determining domicile, consideration may be given to a person's  
91 expressed intent, conduct, and all attendant circumstances including, but not limited to, financial  
92 independence, business pursuits, employment, income sources, residence for income tax purposes,  
93 marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real  
94 property owned by the person, motor vehicle and other personal property registration, and other factors  
95 reasonably necessary to determine the qualification of a person to register or vote.

96 "Special election" means any election that is held pursuant to law to fill a vacancy in office or to  
97 hold a referendum.

98 "State Board" or "Board" means the State Board of Elections.

99 "Virginia voter registration system" or "voter registration system" means the automated central  
100 record-keeping system for all voters registered within the Commonwealth that is maintained as provided  
101 in Article 2 (§ 24.2-404 et seq.) of Chapter 4.

102 § 24.2-108. Compensation and expenses of members; employees.

103 The General Assembly shall establish a compensation and expense plan in the general appropriation  
104 act for the secretaries and members of the electoral boards. The governing body for the county or city of  
105 each electoral board shall pay compensation, expenses, and mileage in accordance with the plan and be  
106 reimbursed annually as authorized by the act. The reasonable costs of electoral board members attending  
107 annual training programs provided by the State Board shall be included in the expense plan for electoral  
108 boards.

109 Each electoral board member shall submit a written claim for mileage and expenses authorized by  
110 the plan. The claim, when filed and found to be correct, shall be paid by the county or city. The county  
111 or city shall pay claims for mileage at the rate payable to members of the General Assembly.

112 The governing body of any county or city may *provide office space and* pay to the ~~secretary of the~~  
113 electoral board any additional allowance for expenses it deems appropriate ~~and may pay to a full-time~~  
114 ~~secretary any additional compensation it deems appropriate.~~ Each county and city shall furnish necessary  
115 postage and office supplies for the electoral board.

116 *The electoral board, or the general registrar as delegated by the electoral board, may employ an*  
117 *election manager and any additional staff that it deems necessary to carry out its duties. These*  
118 *employees shall be employed, receive benefits, and be compensated in accordance with the civil service*  
119 *plan and regulations established by the local governing body and shall not be subject to the term limits*  
120 *of electoral board members or the general registrar. All employees of the electoral board shall have the*

same limitations and qualifications and fulfill the same requirements as the general registrar except that an employee shall be a registered voter of the Commonwealth but is not required to be a qualified voter of the county or city in which he is employed. Candidates who are residents in the county or city for which they seek employment may be given preference in hiring.

§ 24.2-111. Compensation and expenses of general registrars.

The General Assembly shall establish a compensation plan in the general appropriation act for the general registrars. The governing body for the county or city of each general registrar shall pay compensation in accordance with the plan and be reimbursed annually as authorized in the act. The governing body shall be required to provide benefits to the general registrar and assistant registrars and his staff as provided to other employees of the locality, and shall be authorized to supplement the salary of the general registrar to the extent provided in the act.

Each locality shall pay the reasonable expenses of the general registrar, including reimbursement for mileage at the rate payable to members of the General Assembly. In case of a dispute, the State Board shall approve or disapprove the reimbursement. Reasonable expenses include, but are not limited to, costs for: (i) an adequately trained registrar's staff, including training in the use of computers and other technology to the extent provided to other local employees with similar job responsibilities, and reasonable costs for the general registrar or at least one member of the registrar's staff to attend the annual training offered by the State Board; (ii) adequate training for officers of election; (iii) conducting elections as required by this title; and (iv) voter education.

§ 24.2-112. Employees of the general registrars.

The electoral board shall determine the number and set the term for assistant registrars; however, their terms shall not extend beyond the term set by law of the incumbent general registrar. The general registrar shall establish the duties of assistant registrars, appoint assistant registrars, and have authority to remove any assistant registrar who fails to discharge the duties of his office.

In any county or city whose population is more than 28,600 but less than 29,000, there shall be at least one full-time assistant registrar who shall serve in the office of the general registrar.

In any county or city whose population is over 15,500, there shall be at least one assistant registrar who shall serve at least one day each week in the office of the general registrar.

Any county or city whose population is 15,500 or less shall have at least one substitute registrar who is able to take over the duties of the general registrar in an emergency and who shall assist the general registrar when he requests.

All assistant registrars shall have the same limitations and qualifications and fulfill the same requirements as the general registrar except that (i) an assistant registrar may be an officer of election and (ii) an assistant registrar shall be a qualified voter of the Commonwealth but is not required to be a qualified voter of the county or city in which he serves as registrar. Candidates who are residents in the county or city for which they seek appointment may be given preference in hiring. Localities may mutually agree to share an assistant registrar among two or more localities. Assistant registrars who agree to serve without pay shall be supervised and trained by the general registrar.

All other employees shall be employed by the general registrar. The general registrar may hire additional temporary employees on a part-time basis as needed.

The compensation of any assistant registrar, other than those who agree to serve without pay, or any other employee of the general registrar shall be fixed and paid by the local governing body and shall be the equivalent of or exceed the minimum hourly wage established by federal law in 29 U.S.C. § 206 (a) (1), as amended.

The general registrar shall not appoint to the office of paid assistant registrar his spouse or any person, or the spouse of any person, who is his parent, grandparent, sibling, child, or grandchild.

The general registrar shall employ full-time and part-time staff as needed to carry out the responsibilities of his office. These employees shall be employed, receive benefits, and be compensated in accordance with the civil service plan and regulations established by the local governing body and shall not be subject to the term limit of the general registrar. The general registrar may appoint assistant registrars and hire additional temporary employees on a part-time basis as needed.

All employees of the general registrar shall have the same limitations and qualifications and fulfill the same requirements as the general registrar except that an employee shall be a registered voter of the Commonwealth but is not required to be a qualified voter of the county or city in which he is employed. Candidates who are residents in the county or city for which they seek employment may be given preference in hiring.

All assistant registrars and temporary employees shall have the same limitations and qualifications and fulfill the same requirements as the general registrar except that (i) an assistant registrar or temporary employee may be an officer of election and (ii) an assistant registrar or temporary employee shall be a qualified voter of the Commonwealth but is not required to be a qualified voter of the county or city in which he serves as registrar. Candidates who are residents in the county or city for which

182 *they seek appointment may be given preference in hiring. Localities may mutually agree to share an*  
183 *assistant registrar or temporary employee among two or more localities. Assistant registrars who agree*  
184 *to serve without pay shall be supervised and trained by the general registrar.*

185 *The compensation of any employee, temporary employee, or assistant registrar, other than an*  
186 *assistant registrar who agrees to serve without pay, shall be fixed and paid by the local governing body*  
187 *and shall be the equivalent of or exceed the minimum hourly wage established by federal law in 29*  
188 *U.S.C. § 206(a)(1), as amended.*

189 *The general registrar shall not hire an employee or temporary employee or appoint an assistant*  
190 *registrar who is (i) his spouse or any person, or the spouse of any person, who is his parent,*  
191 *grandparent, sibling, child, or grandchild or (ii) his spouse or any person, or the spouse of any person,*  
192 *who is the parent, grandparent, sibling, child or grandchild of any person who is a candidate for office*  
193 *or an official holding an office elected in whole or in part by the qualified voters of the jurisdiction.*

194 *Every general registrar shall designate a deputy registrar who is able to take over the duties of the*  
195 *general registrar in an emergency. The deputy registrar shall be a full-time or part-time employee and*  
196 *have the same qualifications and limitations as the general registrar.*

197 § 24.2-114. Duties and powers of general registrar.

198 In addition to the other duties required by this title, the general registrar; ~~and the assistant registrars~~  
199 ~~and employees~~ acting under his supervision; shall:

200 1. Maintain the office of the general registrar and establish and maintain additional public places for  
201 voter registration in accordance with the provisions of § 24.2-412.

202 2. Participate in programs to educate the general public concerning registration and encourage  
203 registration by the general public. No registrar shall actively solicit, in a selective manner, any  
204 application for registration or for a ballot or offer anything of value for any such application.

205 3. Perform his duties within the county or city he was appointed to serve, except that a registrar may  
206 (i) go into a county or city in the Commonwealth contiguous to his county or city to register voters of  
207 his county or city when conducting registration jointly with the registrar of the contiguous county or city  
208 or (ii) notwithstanding any other provision of law, participate in multijurisdictional staffing for voter  
209 registration offices, approved by the State Board, that are located at facilities of the Department of  
210 Motor Vehicles.

211 4. Provide the appropriate forms for applications to register and to obtain the information necessary  
212 to complete the applications pursuant to the provisions of the Constitution of Virginia and general law.

213 5. Indicate on the registration records for each accepted mail voter registration application form  
214 returned by mail pursuant to Article 3.1 (§ 24.2-416.1 et seq.) of Chapter 4 that the registrant has  
215 registered by mail. The general registrar shall fulfill this duty in accordance with the instructions of the  
216 State Board so that those persons who registered by mail are identified on the registration records, lists  
217 of registered voters furnished pursuant to § 24.2-405, lists of persons who voted furnished pursuant to  
218 § 24.2-406, and pollbooks used for the conduct of elections.

219 6. Accept a registration application or request for transfer or change of address submitted by or for a  
220 resident of any other county or city in the Commonwealth. Registrars shall process registration  
221 applications and requests for transfer or change of address from residents of other counties and cities in  
222 accordance with written instructions from the State Board and shall forward the completed application or  
223 request to the registrar of the applicant's residence. Notwithstanding the provisions of § 24.2-416, the  
224 registrar of the applicant's residence shall recognize as timely any application or request for transfer or  
225 change of address submitted to any person authorized to receive voter registration applications pursuant  
226 to Chapter 4 (§ 24.2-400 et seq.), prior to or on the final day of registration. The registrar of the  
227 applicant's residence shall determine the qualification of the applicant and promptly notify the applicant  
228 at the address shown on the application or request of the acceptance or denial of his registration or  
229 transfer. However, notification shall not be required when the registrar does not have an address for the  
230 applicant.

231 7. Preserve order at and in the vicinity of the place of registration. For this purpose, the registrar  
232 shall be vested with the powers of a conservator of the peace while engaged in the duties imposed by  
233 law. He may exclude from the place of registration persons whose presence disturbs the registration  
234 process. He may appoint special officers, not exceeding three in number, for a place of registration and  
235 may summon persons in the vicinity to assist whenever, in his judgment, it is necessary to preserve  
236 order. ~~The general registrar and any assistant registrar shall be authorized to administer oaths for~~  
237 ~~purposes of this title.~~

238 8. Maintain the official registration records for his county or city in the system approved by, and in  
239 accordance with the instructions of, the State Board; preserve the written applications of all persons who  
240 are registered; and preserve for a period of four years the written applications of all persons who are  
241 denied registration or whose registration is cancelled.

242 9. If a person is denied registration, promptly notify such person in writing of the denial and the  
243 reason for denial in accordance with § 24.2-422.

10. Verify the accuracy of the pollbooks provided for each election by the State Board, make the pollbooks available to the precincts, and according to the instructions of the State Board return the pollbooks, or transfer a copy of the data from any electronic pollbooks, to the State Board after each election for voting credit purposes.

11. After the return of the pollbooks by the State Board, retain the pollbooks in his principal office for two years from the date of the election.

12. Maintain accurate and current registration records and comply with the requirements of this title for the transfer, inactivation, and cancellation of voter registrations.

13. Whenever election districts, precincts, or polling places are altered, provide for entry into the voter registration system of the proper district and precinct designations for each registered voter whose districts or precinct have changed and notify each affected voter of changes affecting his districts or polling place by mail.

14. Whenever any part of his county or city becomes part of another jurisdiction by annexation, merger, or other means, transfer to the appropriate general registrar the registration records of the affected registered voters. The general registrar for their new county or city shall notify them by mail of the transfer and their new election districts and polling places.

15. When he registers any person who was previously registered in another state, notify the appropriate authority in that state of the person's registration in Virginia.

16. Whenever any person is believed to be registered or voting in more than one state or territory of the United States at the same time, inquire about, or provide information from the voter's registration and voting records to any appropriate voter registration or other authority of another state or territory who inquires about, that person's registration and voting history.

17. At the request of the county or city chairman of any political party nominating a candidate for the General Assembly, constitutional office, or local office by a method other than a primary, review any petition required by the party in its nomination process to determine whether those signing the petition are registered voters with active status.

18. Carry out such other duties as prescribed by the electoral board.

19. Attend, or designate one member of his staff to attend, an annual training program provided by the State Board.

§ 24.2-122. Status of members of electoral boards, registrars, and officers of election.

Members of electoral boards, registrars, *their employees*, and officers of election shall serve the Commonwealth and its localities in administering the election laws. They shall be deemed to be employees of the county or city in which they serve except as otherwise specifically provided by state law.

Assistant registrars who agree to serve without pay are not state or local employees for any purpose.

§ 24.2-412. Other locations and times for voter registration.

A. In addition to voter registration locations provided for in §§ 24.2-411, 24.2-411.1, and 24.2-411.2, opportunities for voter registration may be provided at other agency offices, business offices, establishments and occasional sites open to the general public, and shall be provided as required by this section. Voter registration shall be conducted only in public places open to the general public and at preannounced hours. Assistant registrars should serve during such hours and at such places. The conduct of voter registration by the general registrar, *his employees*, or an assistant registrar in public places at preannounced hours shall not be deemed solicitation of registration.

B. The general registrar is authorized to set within his jurisdiction ongoing locations and times for registration in local or state government agency offices or in businesses or other establishments open to the general public, subject to the approval of, and pursuant to an agreement with, the head of the government agency, the owner or manager of the business or establishment, or the designee of either. The agreement shall provide for the appointment of employees of the agency, business, or establishment to serve as assistant registrars and shall be in writing and approved by the local electoral board prior to implementation.

Employees of the agency, business, or establishment who are appointed to serve as assistant registrars may be nonresidents of the jurisdiction they are appointed to serve, provided that (i) they are qualified voters of the Commonwealth and (ii) they serve only at their place of employment within the jurisdiction they are appointed to serve.

C. The general registrar or electoral board may set additional occasional sites and times for registration within the jurisdiction. A multi-family residential building not usually open to the public may be used as an occasional registration site so long as the public has free access to the site during the time for registering voters.

**2. That § 24.2-113 of the Code of Virginia is repealed.**