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SENATE BILL NO. 523

Offered January 9, 2008

Prefiled January 9, 2008

A BILL to amend and reenact §§ 24.2-644 and 24.2-648 of the Code of Virginia, relating to elections; paper and machine ballots; write-in votes.

Patron—Wagner

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:**1. That §§ 24.2-644 and 24.2-648 of the Code of Virginia are amended and reenacted as follows:**

§ 24.2-644. Voting by paper ballot; voting for presidential electors; write-in votes.

A. The qualified voter shall take the official paper ballot and enter the voting booth. After entering the voting booth, the qualified voter shall mark immediately preceding the name of each candidate for whom he wishes to vote a check (/cm) or a cross (X or +) or a line (-) in the square provided for such purpose, leaving unmarked the square preceding the name of each candidate for whom he does not wish to vote. Any ballot marked so that the intent of the voter is clear shall be counted.

B. The qualified voter at a presidential election shall mark the square preceding the names and party designation for his choice of candidates for President and Vice President. His ballot so marked shall be counted as if he had marked squares preceding the names of the individual electors affiliated with his choice for President and Vice President. The qualified voter at a presidential election may cast a write-in vote for President and Vice President as provided in subsections C and D of this section.

C. At all elections except primary elections it shall be lawful for any voter to vote for any person other than the listed candidates for the office by writing or hand printing the person's name on the official ballot. No check or other mark shall be required to cast a valid write-in vote. *The chief officer of election for the polling place shall determine the correct spelling for the last name of each write-in candidate. Only those write-in votes that contain the correct spelling for the last name of the write-in candidate, as determined by the chief officer, shall be counted. Write-in votes that misspell the last name of the write-in candidate shall be void and not counted.* Write-in votes for President and Vice President shall be counted only for candidates who have filed a joint declaration of intent to be write-in candidates for the offices with the Secretary of the State Board not less than ten days before the date of the presidential election. The declaration of intent shall be on a form prescribed by the State Board and shall include a list of presidential electors pledged to those candidates which equals the whole number of senators and representatives to which the Commonwealth at that time is entitled in the Congress of the United States. A write-in vote cast for candidates for President and Vice President, or for a candidate for President only, shall be counted for the individual electors listed on the declaration of intent as pledged to those candidates.

D. No write-in vote shall be counted unless the name is entered on the ballot in conformance with this section. No write-in vote shall be counted when it is apparent to the officers of election that a voter has voted for the same person for the same office more than one time. No write-in vote shall be counted for an office for any person whose name appears on the ballot as a candidate for that office. If two or more persons are to be elected to the same office, a voter may vote for one or more persons whose names do appear on the ballot and one or more persons whose names do not appear on the ballot, provided that the total number of votes cast by him for that office does not exceed the number of persons to be elected to that office.

§ 24.2-648. Write-in votes on voting equipment.

Write-in votes may be cast on voting equipment for any person whose name does not appear on the ballot as a candidate for the office being voted, subject to this section and the provisions of § 24.2-644 not in conflict with this section.

Each write-in vote shall be entered in the receptacle or area designated on the device for the office being elected. A write-in vote shall be cast in its appropriate place, in accordance with the instructions for that equipment, or it shall be void and not counted. *The chief officer of election for the polling place shall determine the correct spelling for the last name of each write-in candidate. Only those write-in votes that contain the correct spelling for the last name of the write-in candidate, as determined by the chief officer, shall be counted. Write-in votes that misspell the last name of the write-in candidate shall be void and not counted.*

Except on devices which provide a means to enter a name electronically, each write-in vote shall be entered by the voter in his own handwriting or hand printing.

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