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SENATE BILL NO. 152

Offered January 13, 2010

Prefiled January 11, 2010

A *BILL to amend and reenact §§ 24.2-679, 24.2-709, and 24.2-711 of the Code of Virginia, relating to absentee ballot deadline; military voters.*

Patron—Stuart

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-679, 24.2-709, and 24.2-711 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-679. State Board to meet and make statement as to number of votes.

A. The State Board shall meet on the fourth Monday in November to ascertain the results of the November election. If a majority of the Board is not present or if, for any other reason, the Board is unable to ascertain the results on that day, the meeting shall stand adjourned from day to day for not more than three days until a quorum is present and the Board has ascertained the results as provided in this section.

The Board shall examine the certified abstracts on file in its office *and amended statement of results filed pursuant to § 24.2-711* and make statements of the whole number of votes given at any such election for members of the General Assembly, Governor, Lieutenant Governor and Attorney General, members of the United States Congress and electors of President and Vice President of the United States, and any officer shared by more than one county or city, or any combination thereof, or for so many of such officers as have been voted for at the election.

The statement shall show, for each office and each county, city, and election district, the whole number of votes given to each candidate and to any other person elected to office. The Board members shall certify the statements to be correct and sign the statements. The Board shall then determine those persons who received the greatest number of votes and have been duly elected to each office. The Board members shall endorse and subscribe on such statements a certificate of their determination. The Board shall record each certified statement and determination in a suitable book to be kept by it in its office.

B. The State Board shall meet as soon as possible after it receives the returns for any special election held at a time other than the November general election to ascertain the results of the special election in the manner prescribed in subsection A. If the returns have not been received within seven days of the election, the Board shall meet and adjourn from day to day until it receives the returns, ascertains the results, and makes its determination.

§ 24.2-709. Ballot to be returned in manner prescribed by law.

Any ballot returned to the office of the electoral board or general registrar in any manner except as prescribed by law, shall be void. Absentee ballots shall be returned to the electoral board or general registrar before the closing of the polls; *however, an absentee ballot cast by an absentee voter who is eligible for an absentee ballot under subdivision 2 of § 24.2-700 and who applied for an absentee ballot prior to the deadline set forth in § 24.2-612 for electoral boards to make printed absentee ballots available, where the electoral board did not mail or deliver the absentee ballot until after such deadline has elapsed, shall be returned to the electoral board no later than by 5:00 p.m. on the tenth day following the day of the election.* The board member or registrar receiving the ballot shall mark on each envelope the date, time, and manner of delivery. For all ballots returned by the general registrar to the electoral board, the board shall give to the general registrar a receipt showing the time and date of the return.

§ 24.2-711. Duties of officers of election.

Before the polls open, the officers of election at each precinct shall mark, for each person on the absentee voter applicant list, the letters "AB" (meaning absentee ballot) in the voting record column on the pollbook. The pollbook may be so marked prior to election day by the general registrar, the secretary of the electoral board, or staff under the direction of the general registrar or the secretary, or when the pollbook is produced by the State Board pursuant to § 24.2-404. If the pollbook has been marked prior to election day, before the polls open the officers of election at each precinct shall check the marks for accuracy and make any additions or corrections required.

The chief officer of election shall keep the copy of the absentee voter applicant list in the polling place as a public record open for inspection upon request at all times while the polls are open.

If a voter, whose name appears on the absentee voter applicant list, has not returned an unused ballot

59 and offers to vote in his precinct, the officers of election in the precinct shall determine the matter
60 pursuant to §§ 24.2-653.1 and 24.2-708.

61 After the close of the polls, the container of absentee ballots shall be opened by the officers of
62 election. As each ballot envelope is removed from the container, the name of the voter shall be called
63 and checked as if the voter were voting in person. If the voter is found entitled to vote, an officer shall
64 mark the voter's name on the pollbook with the first or next consecutive number from the voter count
65 form, or shall enter that the voter has voted if the pollbook is in electronic form. The ballot envelope
66 shall then be opened, and the ballot deposited in the ballot container without being unfolded or
67 examined. If the voter is found not entitled to vote, the unopened envelope shall be rejected. A majority
68 of the officers shall write and sign a statement of the cause for rejection on the envelope or on an
69 attachment to the envelope.

70 When all ballots have been accounted for and either voted or rejected, the officers shall place the
71 empty ballot envelopes, the return envelopes, and any rejected ballot envelopes, in one envelope
72 provided for the purpose and seal and deliver it with the ballots cast at the election as provided in this
73 title.

74 *In accordance with § 24.2-709, absentee ballots cast by an absentee voter who is eligible for an*
75 *absentee ballot under subdivision 2 of § 24.2-700 and received after the close of the polls on election*
76 *day but no later than 5:00 p.m. on the tenth day following the election shall be counted pursuant to the*
77 *procedures set forth in this section and, if the voter is found entitled to vote, included in the election*
78 *returns. The electoral board shall prepare an amended statement of results that shall include the results*
79 *of such ballots and shall deliver such statement to the State Board prior to its meeting pursuant to*
80 *§ 24.2-679 and shall deliver a copy of such statement to the general registrar to be available for*
81 *inspection when his office is open for business.*