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**SENATE BILL NO. 306**

Offered January 13, 2010

Prefiled January 12, 2010

*A BILL to amend and reenact §§ 24.2-103, 24.2-115, and 24.2-706 of the Code of Virginia, relating to information provided to political parties and candidates.*

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Patron—Martin

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Referred to Committee on Privileges and Elections

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

**1. That §§ 24.2-103, 24.2-115, and 24.2-706 of the Code of Virginia are amended and reenacted as follows:**

§ 24.2-103. Powers and duties in general.

A. The State Board shall supervise and coordinate the work of the county and city electoral boards and of the registrars to obtain uniformity in their practices and proceedings and legality and purity in all elections. It shall make rules and regulations and issue instructions and provide information consistent with the election laws to the electoral boards and registrars to promote the proper administration of election laws. Electoral boards and registrars shall provide information requested by the Board and shall follow (i) the elections laws and (ii) the rules and regulations of the Board insofar as they do not conflict with Virginia or federal law. *Upon request and at a reasonable price, the State Board shall provide to any political party or candidate, within three days of the receipt of the request, copies of any rules or regulations made by the State Board, or instructions or information provided by the State Board to the local electoral boards and registrars.*

B. The Board shall ensure that the members of the electoral boards and general registrars are properly trained to carry out their duties by offering training annually, or more often, as it deems appropriate, and without charging any fees to the electoral boards and general registrars for the training. The Board shall set the training standards for the officers of election to be fulfilled by the local electoral boards and general registrars.

C. The Board may institute proceedings pursuant to § 24.2-234 for the removal of any member of an electoral board who fails to discharge the duties of his office in accordance with law. The Board may petition the local electoral board to remove from office any general registrar who fails to discharge the duties of his office according to law. The Board may institute proceedings pursuant to § 24.2-234 for the removal of a general registrar if the local electoral board refuses to remove the general registrar and the State Board finds that the failure to remove the general registrar has a material adverse effect upon the conduct of either the registrar's office or any election. Any action taken by the Board pursuant to this subsection shall require a recorded majority vote of the Board.

D. The Board may petition a circuit court or the Supreme Court, whichever is appropriate, for a writ of mandamus or prohibition, or other available legal relief, for the purpose of ensuring that elections are conducted as provided by law.

E. The Board shall supervise its own staff to assure that no member of its staff shall serve (i) as the chairman of a political party or other officer of a state-, local-, or district-level political party committee or (ii) as a paid or volunteer worker in the campaign of a candidate for nomination or election to an office filled by election in whole or in part by the qualified voters of the Commonwealth.

F. The Board shall adopt a seal for its use and bylaws for its own proceedings.

§ 24.2-115. Appointment, qualifications, and terms of officers of election.

Each electoral board at its regular meeting in the first week of February shall appoint officers of election. Their terms of office shall begin on March 1 following their appointment and continue, at the discretion of the electoral board, for a term not to exceed three years or until their successors are appointed.

Not less than three competent citizens shall be appointed for each precinct and, insofar as practicable, each officer shall be a qualified voter of the precinct he is appointed to serve, but in any case a qualified voter of the Commonwealth. In appointing the officers of election, representation shall be given to each of the two political parties having the highest and next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election. The representation of the two parties shall be equal at each precinct having an equal number of officers and shall vary by no more than one at each precinct having an odd number of officers. If possible, officers shall be appointed from lists of nominations filed by the political parties entitled to appointments. The party shall file its nominations with the secretary of the electoral board at least 10 days before February 1 each year. The

59 electoral board may appoint additional citizens who do not represent any political party to serve as  
60 officers but not as the chief officer or the assistant chief officer.

61 Officers of election shall serve for all elections held in their respective precincts during their terms of  
62 office unless the electoral board decides that fewer officers are needed for a particular election, in which  
63 case party representation shall be maintained as provided above. For a primary election involving only  
64 one political party, persons representing the political party holding the primary shall serve as the officers  
65 of election if possible.

66 The electoral board shall designate one officer as the chief officer of election and one officer as the  
67 assistant for each precinct. The officer designated as the assistant for a precinct, whenever practicable,  
68 shall not represent the same political party as the chief officer for the precinct. The electoral board may  
69 also appoint at least one officer of election who reports to the precinct at least one hour prior to the  
70 closing of the precinct and whose primary responsibility is to assist with closing the precinct and  
71 reporting the results of the votes at the precinct.

72 The electoral board shall instruct each chief officer and assistant in his duties not less than three nor  
73 more than 30 days before each election. Each electoral board may instruct each officer of election in his  
74 duties at an appropriate time or times before each November general election.

75 If an officer of election is unable to serve at any election during his term of office, the electoral  
76 board may at any time appoint a substitute who shall hold office and serve for the unexpired term.

77 Additional officers shall be appointed in accordance with this section at any time that the electoral  
78 board determines that they are needed.

79 The secretary of the electoral board shall prepare a list of the officers of election that shall be  
80 available for inspection and posted in the general registrar's office prior to March 1 each year. Whenever  
81 substitute or additional officers are appointed, the secretary shall promptly add the names of the  
82 appointees to the public list. *Upon request and at a reasonable price, the secretary shall provide a copy*  
83 *of the list of the officers of election to any political party or candidate.*

84 § 24.2-706. Duty of general registrar and electoral board on receipt of application; statement of voter.

85 On receipt of an application for an absentee ballot, the general registrar shall enroll the name and  
86 address of each registered applicant on an absentee voter applicant list that shall be maintained in the  
87 office of the general registrar with a file of the applications of the listed applicants. The list and the  
88 applications shall be available for inspection and copying by any registered voter during regular office  
89 hours. *Upon request and at a reasonable price, the secretary shall provide a copy of the absentee voter*  
90 *applicant list to any political party or candidate.*

91 No list or application containing an individual's social security number, or any part thereof, or the  
92 individual's day and month of birth, shall be made available for inspection or copying by anyone. The  
93 State Board of Elections shall prescribe procedures for local electoral boards and general registrars to  
94 make the information in the lists and applications available in a manner that does not reveal social  
95 security numbers or parts thereof, or an individual's day and month of birth.

96 The completion and timely delivery of an application for an absentee ballot shall be construed to be  
97 an offer by the applicant to vote in the election.

98 The general registrar shall note on each application received whether the applicant is or is not a  
99 registered voter and notify the secretary of the electoral board. In reviewing the application for an  
100 absentee ballot, the general registrar and electoral board shall not reject the application of any individual  
101 because of an error or omission on any record or paper relating to the application, if such error or  
102 omission is not material in determining whether such individual is qualified to vote absentee.

103 If the application has been properly completed and signed and the applicant is a registered voter of  
104 the precinct in which he offers to vote, the electoral board shall within three business days of receiving  
105 an application for an absentee ballot, or as soon thereafter as is reasonably possible, send to the  
106 applicant by mail, obtaining a certificate of mailing, or deliver to him in person in the office of the  
107 secretary or registrar, the following items and nothing else:

108 1. An envelope containing the folded ballot, sealed and marked "Ballot within. Do not open except  
109 in presence of a witness."

110 2. An envelope, with printing only on the flap side, for resealing the marked ballot, on which  
111 envelope is printed the following:

112 "Statement of Voter."

113 "I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016,  
114 that my FULL NAME is ..... (last, first, middle); that I am now or have been at some time since  
115 last November's general election a legal resident of ..... (STATE YOUR LEGAL RESIDENCE IN  
116 VIRGINIA including the house number, street name or rural route address, city, zip code); that I  
117 received the enclosed ballot(s) upon application to the registrar of such county or city; that I opened the  
118 envelope marked 'ballot within' and marked the ballot(s) in the presence of the witness, without  
119 assistance or knowledge on the part of anyone as to the manner in which I marked it (or I am returning  
120 the form required to report how I was assisted); that I then sealed the ballot(s) in this envelope; and that

I have not voted and will not vote in this election at any other time or place.

Signature of Voter .....

Date .....

Signature of witness ....."

For elections held after January 1, 2004, instead of the envelope containing the above oath, an envelope containing the standard oath prescribed by the presidential designee under section 101 (b) (7) of the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff et seq.) shall be sent to voters who are qualified to vote absentee under that Act.

3. A properly addressed envelope for the return of the ballot to the electoral board by mail or by the applicant in person.

4. Printed instructions for completing the ballot and statement on the envelope and returning the ballot.

For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to show identification the first time the voter votes in a federal election in the state, the printed instructions shall direct the voter to submit with his ballot: (i) a copy of a current and valid photo identification; or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other document that shows the name and address of the voter. Such individual who desires to vote by mail but who does not submit one of the forms of identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff et seq.), information provided by the State Board specific to the voting rights and responsibilities for such citizens, or information provided by the registrar specific to the status of the voter registration and absentee ballot application of such voter, may be included.

The envelopes and instructions shall be in the form prescribed by the State Board.

If the applicant makes his application to vote in person under § 24.2-701 at a time when the printed ballots for the election are available, the general registrar or the secretary of the electoral board, on the determination of the qualifications of the applicant to vote, shall provide to the applicant the items set forth in subdivisions 1 through 4, and no item shall be removed by the applicant from the office of the general registrar or the secretary of the electoral board. On the request of the applicant, made no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote, the general registrar or the secretary may send the items set forth in subdivisions 1 through 4 to the applicant by mail, obtaining a certificate of mailing.

If the applicant states as the reason for his absence on election day any of the reasons set forth in subdivision 2 of § 24.2-700, the electoral board shall mail or deliver in person to the applicant in the office of the secretary or general registrar, the items as set forth in subdivisions 1 through 4 and, if necessary, an application for registration. A certificate of mailing shall not be required. The electoral board shall send the blank ballot, the form for the envelope for returning the marked ballot, and instructions to the voter by electronic transmission if the voter so requests and if the applicant voter is located outside of the Commonwealth. The voted ballot shall be returned to the electoral board as otherwise required by this chapter.

When the statement prescribed in subdivision 2 has been properly completed and signed by the registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § 24.2-651.

The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur, or (iii) the campaign committee or the appropriate district political party chairman of such candidate.