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HOUSE BILL NO. 1057

Offered January 11, 2012

Prefiled January 11, 2012

A BILL to amend and reenact §§ 24.2-101, 24.2-419, 24.2-444, 24.2-612, 24.2-700, 24.2-701, 24.2-702.1, 24.2-703, 24.2-706, 24.2-709, and 24.2-713 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 24.2-419.1, 24.2-419.2, 24.2-701.1, and 24.2-701.2; and to repeal Articles 7 (§§ 24.2-440 through 24.2-443) and 7.1 (§§ 24.2-443.1 through 24.2-443.4) of Chapter 4 of Title 24.2 of the Code of Virginia, relating to voting by military and overseas citizens.

Patrons—Anderson, Bell, Richard P., Byron, Helsel, Hodges, Lewis, Massie, Merricks, O'Bannon, O'Quinn, Peace, Pogge, Poindexter, Ramadan, Rush, Rust, Villanueva, Watson and Wilt

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-101, 24.2-419, 24.2-444, 24.2-612, 24.2-700, 24.2-701, 24.2-702.1, 24.2-703, 24.2-706, 24.2-709, and 24.2-713 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 24.2-419.1, 24.2-419.2, 24.2-701.1, and 24.2-701.2 as follows:

§ 24.2-101. Definitions.

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

"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.), 9.3 (§ 24.2-945 et seq.), and 9.5 (§ 24.2-955 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 9.3 (§ 24.2-945 et seq.) and 9.5 (§ 24.2-955 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 3 (§ 24.2-947 et seq.) of Chapter 9.3.

"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.

"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.

"Entrance of polling place" or "entrance to polling place" means an opening in the wall used for ingress to a structure.

"Federal Post Card Application" means the application prescribed under Section 101(b)(2) of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff (b)(2).

"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.

"Military-overseas ballot" means (i) a Federal Write-In Absentee Ballot, (ii) a ballot specifically prepared or distributed for use by a voter eligible to vote absentee under subdivision 2 of § 24.2-700 in accordance with this title, or (iii) an absentee ballot cast by a voter voting absentee under subdivision 2 of § 24.2-700 in accordance with this title, including an early ballot authorized in § 24.2-702.

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"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.

"Overseas voter" means a United States citizen who is outside the United States.

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

"Person with a disability" means a person with a disability as defined by the Virginians with Disabilities Act (§ 51.5-1 et seq.).

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

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

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

"Qualified voter" means a person who is entitled to vote pursuant to the Constitution of Virginia and who is (i) 18 years of age on or before the day of the election or qualified pursuant to § 24.2-403 or subsection D of § 24.2-544, (ii) a resident of the Commonwealth and of the precinct in which he offers to vote, and (iii) registered to vote. No person who has been convicted of a felony shall be a qualified voter unless his civil rights have been restored by the Governor or other appropriate authority. No person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as provided by law.

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

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

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

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

"Residence" or "resident," for all purposes of qualification to register and vote, means and requires both domicile and a place of abode. To establish domicile, a person must live in a particular locality with the intention to remain. A place of abode is the physical place where a person dwells.

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

"State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States.

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

"Uniformed service" means (i) active and reserve components of the Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States; (ii) the Merchant Marine, the commissioned corps of the Public Health Service, or the commissioned corps of the National Oceanic and Atmospheric Administration of the United States; or (iii) the Virginia National Guard.

"United States," used in the territorial sense, means the several states, the District of Columbia, Puerto Rico, the United States Virgin Islands, and any territory or insular possession subject to the jurisdiction of the United States.

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

"Write-In Absentee Ballot" means the ballot described in Section 103 of the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff-2, that may be used in all elections in which the voter is eligible to vote as provided in § 24.2-702.1.

§ 24.2-419. Extended time for certain persons to register by mail.

The registration application of the following persons may accompany an application for an absentee

ballot and shall be on a form prescribed by the State Board ~~or on a~~, Federal Post Card Application, *Write-In Absentee Ballot, or their electronic equivalents*:

1. Any member of a uniformed service ~~of the United States, as defined in 42 U.S.C. § 1973ff-6 (7),~~ who is on active duty;

2. ~~Any member of the merchant marine of the United States;~~

~~3.~~ Any spouse or dependent residing with a person listed in ~~subdivisions~~ *subdivision* 1 ~~or 2~~; and

~~4~~*3*. Any person temporarily residing outside the United States.

The registration application from ~~a person~~ *persons* listed in subdivisions 1~~,~~ *and* 2 ~~and 3 of this section~~ may be accepted notwithstanding the provisions of § 24.2-416 if they are eligible to be registered and if, by reason of active duty, they are normally absent from the city or county in which they reside.

§ 24.2-419.1. Registration by uniformed service and overseas citizens.

A. In registering to vote, an overseas voter who is eligible to vote in this state shall use and be assigned to the voting precinct of the address of the last place of residence of the voter in Virginia, or, in the case of a United States citizen born outside the United States, the address of the last place of residence in Virginia of the parent or legal guardian of the overseas citizen. If that address is no longer a recognized residential address, the applicant shall be assigned an address for voting purposes.

B. To apply to register to vote, in addition to any other approved method, a voter eligible to vote absentee under subdivision 2 of § 24.2-700 may use a Federal Post Card Application or the application's electronic equivalent. Such voter may use the declaration accompanying a Write-In Absentee Ballot to apply to register to vote simultaneously with the submission of the Write-In Absentee Ballot, if the declaration is received by the applicable deadline for registration.

C. The electoral board shall ensure that the electronic transmission system used to send election materials to uniformed service and overseas citizens is capable of accepting both a Federal Post Card Application and any other approved electronic registration application sent to the appropriate election official. Applicants eligible under subdivision 2 of § 24.2-700 may use the electronic transmission system or any other approved method to register to vote.

§ 24.2-419.2. Restriction of ballot eligibility.

To be eligible to vote in state and local elections, the application of an overseas voter who has given up his place of abode in Virginia must show that the applicant is employed overseas or the spouse or dependent of a person employed overseas.

§ 24.2-444. Duties of general registrars and State Board of Elections as to voter registration records; public inspection; exceptions.

A. Registration records shall be kept and preserved by the general registrar in compliance with §§ 2.2-3803, 2.2-3808, and 24.2-114. The State Board shall provide to each general registrar, for each precinct in his county or city, lists of registered voters for inspection ~~and lists of persons registering pursuant to §§ 24.2-442 and 24.2-443.3~~. The lists shall contain the name, address, year of birth, gender and all election districts applicable to each registered voter. The lists shall be opened to public inspection at the office of the general registrar when the office is open for business. New lists shall be provided not less than once each year to all localities except those in which an updated list is made available electronically for public inspection, and supplements containing additions, deletions, and changes shall be provided not less than (i) weekly during the 60 days preceding any general election and (ii) monthly at other times. Notwithstanding any other provision of law regarding the retention of records, upon receipt of any new complete list, the general registrar shall destroy the obsolete list and its supplements. The State Board shall provide to each general registrar lists of persons denied registration for public inspection. Such lists may be provided electronically through the Virginia voter registration system and produced in whole or in part upon a request for public inspection.

B. The general registrars shall maintain for at least two years and shall make available for public inspection and copying and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of the registration records pursuant to §§ 24.2-427, 24.2-428 and 24.2-428.1, including lists of the names and addresses of all persons to whom notices are sent, and information concerning whether each person has responded to the notice as of the date that inspection of the records is made.

C. No list provided by the State Board under subsection A nor any record made available for public inspection under subsection B shall contain any of the following information: (i) an individual's social security number, or any part thereof; (ii) the residence address of an individual who has furnished a post office box address in lieu of his residence address as authorized by subsection B of § 24.2-418; (iii) the declination by an individual to register to vote and related records; (iv) the identity of a voter registration agency through which a particular voter is registered; or (v) the day and month of birth of an individual. No voter registration records other than the lists provided by the State Board under subsection A and the records made available under subsection B shall be open to public inspection.

§ 24.2-612. List of offices and candidates filed with State Board and checked for accuracy; when

ballots printed; number required.

Immediately after the expiration of the time provided by law for a candidate for any office to qualify to have his name printed on the official ballot and prior to printing the ballots for an election, each electoral board shall forward to the State Board a list of the county, city, or town offices to be filled at the election and the names of all candidates who have filed for each office. In addition, each electoral board shall forward the name of any candidate who failed to qualify with the reason for his disqualification. The State Board shall promptly advise the electoral board of the accuracy of the list. The failure of any electoral board to send the list to the State Board for verification shall not invalidate any election.

Each electoral board shall have printed the number of ballots it determines will be sufficient to conduct the election.

Notwithstanding any other provisions of this title, the State Board may print or otherwise provide (i) one statewide paper ballot style for each paper ballot style in use for presidential and vice-presidential electors for use only by persons eligible to vote for those offices only under ~~§ 24.2-402 or~~ clause (iii) or (v) of subsection B of § 24.2-416.1~~,~~ *or* (ii) one statewide paper ballot style for each paper ballot style in use for Governor, Lieutenant Governor or Attorney General only for use as the early absentee ballot specified in § 24.2-702~~, and (iii) single paper ballot styles for each ballot style in use for each congressional district for federal offices for use only by overseas voters eligible to vote in federal elections only pursuant to Article 7 (§ 24.2-440 et seq.) of Chapter 4 of this title~~. The State Board may apportion or authorize the printer or vendor to apportion the costs for these ballots among the localities based on the number of ballots ordered. Any printer employed by the State Board shall execute the statement required by § 24.2-616. The State Board shall designate a representative to be present at the printing of such ballots and deliver them to the appropriate electoral boards pursuant to § 24.2-617. Upon receipt of such paper ballots, the electoral board shall affix its seal. Thereafter, such ballots shall be handled and accounted for, and the votes counted as the State Board shall specifically direct.

The electoral board shall make printed ballots available for absentee voting not later than 45 days prior to any election or within three business days of the receipt of a properly completed absentee ballot application, whichever is later. In the case of a special election, excluding for federal offices, if time is insufficient to meet the applicable deadline established herein, then the electoral board shall make printed ballots available as soon after the deadline as possible. For the purposes of this chapter, making printed ballots available includes mailing of such ballots or electronic transmission of such ballots pursuant to § 24.2-706 to a qualified absentee voter who is eligible for an absentee ballot under subdivision 2 of § 24.2-700. Not later than five days after absentee ballots are made available, each electoral board shall report to the State Board, in writing on a form approved by the State Board, whether it has complied with the applicable deadline.

Only the names of candidates for offices to be voted on in a particular election district shall be printed on the ballots for that election district.

The electoral boards shall send to the State Board a statement of the number of paper ballots ordered to be printed, proofs of each paper and voting equipment ballot for verification, and copies of each final ballot. If the State Board finds that, in its opinion, the number of ballots ordered to be printed by any local electoral board is not sufficient, it may direct the local board to order the printing of a reasonable number of additional ballots.

§ 24.2-700. Persons entitled to vote by absentee ballot.

The following registered voters may vote by absentee ballot in accordance with the provisions of this chapter in any election in which they are qualified to vote:

1. Any person who, in the regular and orderly course of his business, profession, or occupation or while on personal business or vacation, will be absent from the county or city in which he is entitled to vote;

2. Any person who is (i) a member of a uniformed service ~~of the United States, as defined in 42 U.S.C. § 1973ff-6(7),~~ on active duty, ~~or~~ (ii) ~~a member of the merchant marine of the United States, or (iii) who~~ temporarily ~~resides~~ *residing* outside of the United States, or ~~(iv)~~ *(iii)* the spouse or dependent residing with any person listed in *clause* (i)~~, or~~ (ii)~~, or (iii)~~, and who will be absent on the day of the election from the county or city in which he is entitled to vote;

3. Any student attending a school or institution of learning, or his spouse, who will be absent on the day of election from the county or city in which he is entitled to vote;

4. Any duly registered person with a disability, as defined in § 24.2-101, who is unable to go in person to the polls on the day of election because of his disability, illness, or pregnancy;

5. Any person who is confined while awaiting trial or for having been convicted of a misdemeanor, provided that the trial or release date is scheduled on or after the third day preceding the election. Any person who is awaiting trial and is a resident of the county or city where he is confined shall, on his request, be taken to the polls to vote on election day if his trial date is postponed and he did not have an opportunity to vote absentee;

6. Any person who is a member of an electoral board, registrar, officer of election, or custodian of voting equipment;

7. Any duly registered person who is unable to go in person to the polls on the day of the election because he is primarily and personally responsible for the care of an ill or disabled family member who is confined at home;

8. Any duly registered person who is unable to go in person to the polls on the day of the election because of an obligation occasioned by his religion;

9. Any person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for eleven or more hours of the thirteen hours that the polls are open pursuant to § 24.2-603;

10. Any person who is a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1; or

11. Any person who has been designated by a political party, independent candidate, or candidate in a primary election to be a representative of the party or candidate inside a polling place on the day of the election pursuant to subsection C of § 24.2-604 and § 24.2-639.

§ 24.2-701. Application for absentee ballot.

A. The State Board shall furnish each general registrar with a sufficient number of applications for official absentee ballots. The registrars shall furnish applications to persons requesting them.

The State Board shall implement a system that enables eligible persons to request and receive an absentee ballot application electronically through the Internet. Electronic absentee ballot applications shall be in a form approved by the State Board.

Except as provided in § 24.2-703, a separate application shall be completed for each election in which the applicant offers to vote. An application for an absentee ballot may be accepted the later of (i) 12 months before an election, or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote.

Any application received before the ballots are printed shall be held and processed as soon as the printed ballots for the election are available.

For the purposes of this chapter, the general registrar's office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all general elections, except May general elections held in towns, and on the Saturday immediately preceding any primary election, May general election held in a town, or special election.

Unless the applicant is disabled, all applications for absentee ballots shall be signed by the applicant who shall state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that to the best of his knowledge and belief the facts contained in the application are true and correct and that he has not and will not vote in the election at any other place in Virginia or in any other state. If the applicant is unable to sign the application, a person assisting the applicant will note this fact on the applicant signature line and provide his signature, name, and address.

B. Applications for absentee ballots shall be completed in the following manner:

1. An application completed in person shall be made not less than three days prior to the election in which the applicant offers to vote and completed only in the office of the general registrar. The applicant shall sign the application in the presence of a registrar or a member of the electoral board. The applicant shall provide one of the forms of identification specified in subsection B of § 24.2-643, or if he is unable to present one of the forms of identification listed in that section, he shall sign a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that he is the named registered voter who he claims to be. An applicant who requires assistance in voting by reason of disability or inability to read or write may request assistance pursuant to § 24.2-649 and be assisted in preparation of this statement in accordance with that section. The provisions of § 24.2-649 regarding persons who are unable to sign shall be followed when assisting an applicant in completing this statement.

For federal elections held after January 1, 2004, this paragraph shall apply in the case of 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 that voter votes in a federal election in the state. After completing an application for an absentee ballot in person, such voter shall present (i) a current and valid photo identification or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other government document that shows the name and address of the voter. Such individual who desires to vote in person but who does not show one of the forms of identification specified in this paragraph shall be offered a provisional ballot under the provisions of § 24.2-653. Neither the identification requirements of subsection B of § 24.2-643, nor the identification requirements of subsection A of § 24.2-653, shall apply to such voter at that election. 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.

2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile device if one is available to the office of the general registrar or the office of the State Board if a device is not available locally, or other means. The application shall be on a form furnished by the registrar or, if made under subdivision 2 of § 24.2-700, may be on a Federal Post Card Application prescribed pursuant to 42 U.S.C. § 1973ff(b)(2). The Federal Post Card Application may be accepted the later of (i) 12 months before an election, or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote. The application shall be made to the appropriate registrar no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote.

C. Applications for absentee ballots shall contain the following information:

1. The applicant's printed name, the last four digits of the applicant's social security number, and the reason the applicant will be absent or cannot vote at his polling place on the day of the election;

2. A statement that he is registered in the county or city in which he offers to vote and his residence address in such county or city. Any person temporarily residing outside the United States shall provide the last date of residency at his Virginia residence address, if that residence is no longer available to him. Any person who makes application under subdivision 2 of § 24.2-700 who is not a registered voter may file the applications to register and for a ballot simultaneously;

3. The complete address to which the ballot is to be sent directly to the applicant, unless the application is made in person at a time when the printed ballots for the election are available and the applicant chooses to vote in person at the time of completing his application. The address given shall be (i) the address of the applicant on file in the registration records; (ii) the address at which he will be located while absent from his county or city; or (iii) the address at which he will be located while temporarily confined due to a disability or illness. No ballot shall be sent to, or in care of, any other person; and

4. In the case of a person, or the spouse or dependent of a person, who is on active ~~service~~ *duty* as a member of the ~~armed forces of the United States or a member of the merchant marine of the United States~~ *uniformed services*, the branch of service to which he or the spouse belongs, and his or the spouse's rank, grade, or rate, and service identification number; or

5. In the case of a student, or the spouse of a student, who is attending a school or institution of learning, the name and address of the school or institution of learning; or

6. In the case of any duly registered person with a disability, as defined in § 24.2-101, who is unable to go in person to the polls on the day of the election because of his disability, illness, or pregnancy, the nature of the disability, illness, or pregnancy; or

7. In the case of a person who is confined awaiting trial or for having been convicted of a misdemeanor, the name and address of the institution of confinement; or

8. In the case of a person who will be absent on election day for business reasons, the name of his employer or business; or

9. In the case of a person who will be absent on election day for personal business or vacation reasons, the name of the county or city in Virginia or the state or country to which he is traveling; or

10. In the case of a person who is unable to go to the polls on the day of election because he is primarily and personally responsible for the care of an ill or disabled family member who is confined at home, the name of the family member and the nature of his illness or disability; or

11. In the case of a person who is unable to go to the polls on the day of election because of an obligation occasioned by his religion, his religion and the nature of the obligation; or

12. In the case of a person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603, the name of his business or employer, address of his place of work, and hours he will be at the workplace and commuting on election day; or

13. In the case of a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1, that he is a first responder; or

14. In the case of a person who has been designated by a political party, independent candidate, or candidate in a primary election to be a representative of the party or candidate inside a polling place on the day of the election pursuant to subsection C of § 24.2-604 and § 24.2-639, the fact that he is so designated and the name of the party chairman or candidate who designated him.

§ 24.2-701.1. Methods of applying for military-overseas ballot.

A. A voter eligible under subdivision 2 of § 24.2-700 who is registered to vote in Virginia may apply for a military-overseas ballot using either the regular Virginia absentee ballot application or the Federal Post Card Application or the application's electronic equivalent.

B. A voter described in subdivision 2 of § 24.2-700 who is not registered to vote in Virginia may use a Federal Post Card Application or the application's electronic equivalent to apply simultaneously to register to vote and for a military-overseas ballot.

C. The electoral board shall ensure that the electronic transmission system used for sending election materials is capable of accepting the submission of both a Federal Post Card Application and any other approved electronic military-overseas ballot application sent to the appropriate election official. The voter may use the electronic transmission system or any other approved method to apply for a military-overseas ballot.

D. A voter described in subdivision 2 of § 24.2-700 may use the declaration accompanying a Write-In Absentee Ballot as an application for a military-overseas ballot simultaneously with the submission of the Write-In Absentee Ballot, if the declaration is received by the appropriate election official by the time prescribed in § 24.2-701.

E. To be eligible under subdivision 2 of § 24.2-700, a voter must inform the appropriate election official that the voter is covered by that subdivision. Methods of informing the appropriate election official that a voter is a covered voter include:

1. The use of a Federal Post Card Application or Write-In Absentee Ballot;

2. The use of an overseas address on an approved voter registration application or ballot application; and

3. The inclusion on an approved voter registration application or ballot application of other information sufficient to identify the voter as a voter described in subdivision 2 of § 24.2-700.

§ 24.2-701.2. Use of voter's electronic mail address.

The local election official shall request an electronic mail address from each covered voter who registers to vote after July 1, 2012. An electronic mail address provided by a covered voter shall not be made available to the public or any individual or organization other than an authorized agent of the local election official and is exempt from disclosure under the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). The address may be used only for official communication with the voter about the voting process, including transmitting military-overseas ballots and election materials if the voter has requested electronic transmission and verifying the voter's mailing address and physical location. The request for an electronic mail address must describe the purposes for which the electronic mail address may be used and include a statement that any other use or disclosure of the electronic mail address is prohibited.

§ 24.2-702.1. Write-In Absentee Ballots.

A. Notwithstanding any other provision of this title, a qualified absentee voter who is eligible for an absentee ballot under subdivision 2 of § 24.2-700 may use a ~~write-in absentee ballot~~ *Write-In Absentee Ballot* in any election. Such ballot shall be submitted and processed in the manner provided by the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff et seq.) and this article.

B. Notwithstanding any other provision of this title, a ~~write-in absentee ballot~~ *Write-In Absentee Ballot* submitted pursuant to subsection A shall be considered valid for purposes of simultaneously satisfying both an absentee ballot application and a completed absentee ballot, provided that the ballot is received no later than the deadline for the return of absentee ballots as provided in § 24.2-709 for the election in which the voter offers to vote, and the application contains the following information: (i) the voter's signature; however, if the voter is unable to sign, the person assisting the voter will note this fact in the voter signature box; (ii) the voter's printed name; (iii) the county or city in which he is registered and offers to vote; (iv) the residence address at which he is registered to vote; (v) his current military or overseas address; and (vi) the signature of a witness who shall sign the same application. If the voter is not currently registered in Virginia and is eligible to be, such write-in absentee ballot shall also be considered valid for the purpose of serving as a voter registration application, but such registration shall be valid only for the election for which the write-in ballot was sent.

C. This section shall not be construed to require that an absentee ballot be sent to the absentee voter on receipt of a ~~write-in absentee ballot~~ *Write-In Absentee Ballot* unless the voter has also submitted an absentee ballot application pursuant to § 24.2-701, 24.2-702, or 24.2-703.

§ 24.2-703. Timeliness and scope of application for military-overseas ballot.

Any person who is eligible for ~~an absentee ballot under subdivision 2 of § 24.2-700, or for temporary registration under Article 7 (§ 24.2-440 et seq.) or 7.1 (§ 24.2-443.1 et seq.) of Chapter 4,~~ *a military-overseas ballot* may file a single application to receive ballots for all elections in which he is eligible to vote absentee. The application shall be on a Federal Post Card Application. ~~The~~ *An* application from any person who is *already registered or who is* eligible for ~~an absentee ballot~~ *late registration* under ~~subdivision 2 of § 24.2-700~~ *§ 24.2-419* that is received by the general registrar no later than 5:00 p.m. on the seventh day prior to the election shall be ~~valid~~ *considered a standing request for absentee ballots* through either the next November general election or federal general election, whichever is later. The application from any person applying for ~~temporary~~ registration ~~under Article 7~~

~~or 7.1 of Chapter 4~~ shall be ~~accepted at any time until the registration records are closed pursuant to § 24.2-416 and shall be valid~~ *considered a standing request for absentee ballots* through either the next November general election or federal general election, whichever is later. In the event that a second or subsequent Federal Post Card Application is received from a voter, any previous applications shall be superseded and the duration of the most recently received application shall apply. *An application for a military-overseas ballot for a primary election, whether or not timely, is effective as an application for a military-overseas ballot for the general election and any runoff election necessary to conclude the election for which the application was submitted.*

The general registrar shall retain the application and process the applicant's request for an absentee ballot for each election in accordance with procedures established by the State Board. The applicant shall specify by party designation the primary ballots he is requesting.

If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, no other ballots shall be sent. No ballot shall be sent to the applicant, and no voted ballot received from the applicant shall be valid, (i) for any election held after the voter has notified the registrar that the voter no longer wishes to be registered or (ii) after the registrar has received notification that the voter has registered to vote in another state.

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

On receipt of an application for an absentee ballot, the general registrar shall enroll the name and address of each registered applicant on an absentee voter applicant list that shall be maintained in the office of the general registrar with a file of the applications of the listed applicants. The list shall be available for inspection and copying and the applications shall be available for inspection only by any registered voter during regular office hours. Upon request and for a reasonable fee, the State Board of Elections shall provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such list shall be used only for campaign and political purposes. Any list made available for inspection and copying under this section shall contain the post office box address in lieu of the residence street address for any individual who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address pursuant to subsection B of § 24.2-418.

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

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

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

If the application has been properly completed and signed and the applicant is a registered voter of the precinct in which he offers to vote, the electoral board shall, at the time when the printed ballots for the election are available, send by the deadline set out in § 24.2-612, obtaining a certificate of mailing, or deliver to him in person in the office of the secretary or registrar, the following items and nothing else:

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

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

"Statement of Voter."

"I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that my FULL NAME is _____ (last, first, middle); that I am now or have been at some time since last November's general election a legal resident of _____ (STATE YOUR LEGAL RESIDENCE IN VIRGINIA including the house number, street name or rural route address, city, zip code); that I received the enclosed ballot(s) upon application to the registrar of such county or city; that I opened the envelope marked 'ballot within' and marked the ballot(s) in the presence of the witness, without assistance or knowledge on the part of anyone as to the manner in which I marked it (or I am returning 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 § 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. § 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 government 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, at the time when the printed ballots for the election are available, shall mail by the deadline set forth in § 24.2-612 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, at the time when the printed ballots for the election are available, shall send by the deadline set forth in § 24.2-612 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. The voted ballot shall be returned to the electoral board as otherwise required by this chapter. *The State Board of Elections shall provide instructions and procedures to enable secure submission of voted military-overseas ballots by electronic format. In the event that a ballot is requested on or before but not sent by the deadline for making absentee ballots available under § 24.2-612, the electoral board shall send the blank ballot, instructions, and return envelope form to the voter by the most expedited delivery service available or by electronic means if the voter so requests.*

The instructions for electronic transmission and submission shall be in the form prescribed by the State Board. The State Board may modify the Statement of Voter provided in subdivision 2 to make it compatible with electronic submission. The State Board may specify additional security measures to ensure the accuracy and integrity of absentee voting by electronic means under this section.

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. Any person who fails to discharge his duty as provided in this section through willful neglect of duty and with malicious intent shall be guilty of a Class 1 misdemeanor as provided in subsection A of § 24.2-1001.

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

A. 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. The board member or registrar receiving the ballot shall *(i) seal*

the ballot in an envelope with the Statement or Declaration of Voter, or both, attached to the outside if the ballot was returned electronically and (ii) 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.

B. Notwithstanding the provisions of subsection A, absentee ballots (i) received after the close of the polls on any election day, (ii) received before 5:00 p.m. on the second business day before the State Board meets to ascertain the results of the election pursuant to this title, (iii) requested on or before but not sent by the deadline for making absentee ballots available under § 24.2-612, and (iv) cast by an absentee voter who is eligible for an absentee ballot under subdivision 2 of § 24.2-700 shall be counted pursuant to the procedures set forth in this chapter and, if the voter is found entitled to vote, included in the election returns. The electoral board shall prepare an amended certified abstract, which shall include the results of such ballots, and shall deliver such abstract to the State Board by the business day prior to its meeting pursuant to this title, and shall deliver a copy of such abstract to the general registrar to be available for inspection when his office is open for business.

C. Notwithstanding the provisions of clause (i) of subsection B of § 24.2-427, an absentee ballot returned by a voter in compliance with § 24.2-707 and this section who dies prior to the counting of absentee ballots on election day shall be counted pursuant to the procedures set forth in this chapter if the voter is found to have been entitled to vote at the time that he returned the ballot.

§ 24.2-713. Emergency and pilot authority of the Secretary of the State Board of Elections.

A. The provisions of this section shall apply in the case of an emergency that will not allow sufficient time for the distribution and handling of absentee ballot applications and absentee ballots, in accordance with the procedures of this title, for qualified voters who are unable to vote in person because of the emergency. The Secretary of the State Board of Elections shall have the authority to designate alternative methods and procedures to handle such applications and ballots. Nothing in this section shall authorize the counting of any absentee ballot returned after the polls have closed. For purposes of this section, "an emergency" shall mean (i) any emergency declared by the Governor pursuant to Chapter 3.2 (§ 44-146.13 et seq.) of Title 44, (ii) any emergency declared by the President of the United States or the governor of another state pursuant to law and confirmed by the Governor by the executive order as an emergency for the purposes of this section, or (iii) any public emergency that interferes with the electoral process or the opportunity for qualified voters to exercise their right to vote as determined by the Secretary of the State Board of Elections.

B. The Secretary of the State Board of Elections shall have the authority to authorize and supervise a pilot program or demonstration project in partnership with the Department of Defense Federal Voting Assistance Program (FVAP) or other state agency for the purpose of allowing voters specified in subdivision 2 of § 24.2-700 and military voters with disabilities or injuries to vote by secure electronic means or new technologies for such voters. Ballots cast pursuant to the provisions of this section shall be valid for all purposes.

2. That Articles 7 (§§ 24.2-440 through 24.2-443) and 7.1 (§§ 24.2-443.1 through 24.2-443.4) of Chapter 4 of Title 24.2 of the Code of Virginia are repealed.