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HOUSE BILL NO. 1066

Offered January 11, 2012

Prefiled January 11, 2012

A BILL to amend and reenact §§ 24.2-653, 24.2-711.1, and 24.2-1004 of the Code of Virginia, relating to provisional ballots, absentee voting, and illegal voting and registrations; penalty.

Patron—Hugo

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-653, 24.2-711.1, and 24.2-1004 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-653. Voter whose name does not appear on pollbook; handling of provisional ballots; ballots cast after normal close of polls due to court order extending polling hours.

A. When a person offers to vote pursuant to § 24.2-652 and the general registrar is not available or cannot state that the person is registered to vote, then such person shall be allowed to vote by paper ballot in the manner provided in this section.

Such person shall be given a paper ballot and provide, subject to the penalties for making false statements pursuant to § 24.2-1016, on a green envelope supplied by the State Board, the identifying information required in § 24.2-652. Such person shall be asked to present one of the forms of identification specified in subsection B of § 24.2-643. If he is unable to present one of these forms of identification, he shall sign a statement, subject to felony penalties for false statements pursuant to § 24.2-1016, that he is the named registered voter who he claims to be, and the officers of election shall note on the green envelope that the required statement was signed in lieu of presenting one of the specified forms of identification. The officers of election shall enter the appropriate information for the person in the precinct provisional ballots log in accordance with the instructions of the State Board but shall not enter a consecutive number for the voter on the pollbook nor otherwise mark his name as having voted. The officers of election shall provide an application for registration to the person offering to vote in the manner provided in this section.

The voter shall then, in the presence of an officer of election, but in a secret manner, mark the ballot as provided in § 24.2-644 and seal it in the green envelope. The envelope containing the ballot shall then be placed in the ballot container by an officer of election.

An officer of election, by a written notice given to the voter, shall inform him that a determination of his right to vote shall be made by the electoral board on the following day and advise the voter of the beginning time and place for the board's meeting and of the voter's right to be present at that meeting. At the meeting, the voter may request an extension of the determination of the provisional vote to the following day in order to provide information to prove that the voter is entitled to vote in the precinct pursuant to § 24.2-401. The electoral board shall have the authority to grant such extensions which it deems reasonable to determine the status of a provisional vote.

B. The provisional votes submitted pursuant to subsection A, in their unopened envelopes, shall be sealed in a special envelope marked "Provisional Votes," inscribed with the number of envelopes contained therein, and signed by the officers of election who counted them. All provisional votes envelopes shall be delivered either (i) to the clerk of the circuit court who shall deliver all such envelopes to the secretary of the electoral board or (ii) to the general registrar in localities in which the electoral board has directed delivery of election materials to the general registrar pursuant to § 24.2-668.

The electoral board shall meet on the day following the election and determine whether each person having submitted such a provisional vote was entitled to do so as a qualified voter in the precinct in which he offered the provisional vote. If the board is unable to determine the validity of all the provisional ballots offered in the election, or has granted any voter who has offered a provisional ballot an extension to the following day as provided in subsection A, the meeting shall stand adjourned from day to day, not to exceed seven calendar days from the date of the election, until the board has determined the validity of all provisional ballots offered in the election.

One authorized representative of each political party or independent candidate in a general or special election or one authorized representative of each candidate in a primary election shall be permitted to remain in the room in which the determination is being made so long as he does not impede the orderly conduct of the determination. Each authorized representative shall be a qualified voter of any jurisdiction of the Commonwealth. Each representative, who is not himself a candidate or party chairman, shall present to the electoral board a written statement designating him to be a representative of the party or

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59 candidate and signed by the county or city chairman of his political party, the independent candidate, or
60 the primary candidate, as appropriate. Such statement, bearing the chairman's or candidate's original
61 signature, may be photocopied and such photocopy shall be as valid as if the copy had been signed.

62 If the electoral board determines that such person was not entitled to vote as a qualified voter in the
63 precinct in which he offered the provisional vote, or is unable to determine his right to vote, the
64 envelope containing his ballot shall not be opened and his vote shall not be counted. The provisional
65 vote shall be counted if either (i) such person is entitled to vote in the precinct pursuant to § 24.2-401
66 or (ii) the State Board or the voter presents proof that indicates the voter submitted an application for
67 registration to the Department of Motor Vehicles or other state-designated voter registration agency prior
68 to the close of registration pursuant to § 24.2-416 and the registrar determines that the person was
69 qualified for registration based upon the application for registration submitted by the person pursuant to
70 subsection A. The general registrar shall notify in writing pursuant to § 24.2-114 those persons found
71 not properly registered.

72 If the electoral board determines that such person was entitled to vote, the name of the voter shall be
73 entered in a provisional votes pollbook and marked as having voted, the envelope shall be opened, and
74 the ballot placed in a ballot container without any inspection further than that provided for in
75 § 24.2-646.

76 On completion of its determination, the electoral board shall proceed to count such ballots and certify
77 the results of its count. Its certified results shall be added to those found pursuant to § 24.2-671. No
78 adjustment shall be made to the statement of results for the precinct in which the person offered to vote.

79 The certification of the results of the count together with all ballots and envelopes, whether open or
80 unopened, and other related material shall be delivered by the electoral board to the clerk of the circuit
81 court and retained by him as provided for in §§ 24.2-668 and 24.2-669.

82 C. Whenever the polling hours are extended by an order of a court of competent jurisdiction, any
83 ballots marked after the normal polling hours by persons who were not already in line at the time the
84 polls would have closed, notwithstanding the court order, shall be treated as provisional ballots under
85 this section. The officers of election shall mark the green envelope for each such provisional ballot to
86 indicate that it was cast after normal polling hours due to the court order, and when preparing the
87 materials to deliver to the registrar or electoral board, shall separate these provisional ballots from any
88 provisional ballots used for any other reason. The electoral board shall treat these provisional ballots as
89 provided in subsection B of this section; however, the counted and uncounted provisional ballots marked
90 after the normal polling hours shall be kept separate from all other ballots and recorded in a separate
91 provisional ballots pollbook. The State Board of Elections shall provide instructions to the electoral
92 boards for the handling and counting of such provisional ballots pursuant to this section.

93 *D. The electoral board shall not count any provisional vote cast by a voter whose absentee ballot*
94 *was rejected at a central absentee voter precinct.*

95 § 24.2-711.1. Rejected absentee ballots; notice of reason for rejection.

96 The electoral board of each county and city shall send a written explanation of the reason for
97 rejection of an absentee ballot to the voter whose absentee ballot is rejected ~~within ninety days of the~~
98 ~~date on which the ballot is rejected by the thirtieth day after the election for which it was cast and no~~
99 ~~earlier than the date of that election.~~ The State Board of Elections shall promulgate instructions to
100 implement the provisions of this section.

101 § 24.2-1004. Illegal voting and registrations.

102 A. Any person who wrongfully deposits a ballot in the ballot container or casts a vote on any voting
103 equipment, is guilty of a Class 1 misdemeanor.

104 B. Any person who intentionally (i) votes more than once in the same election, whether those votes
105 are cast in Virginia or in Virginia and any other state or territory of the United States, (ii) procures,
106 assists, or induces another to vote more than once in the same election, whether those votes are cast in
107 Virginia or in Virginia and any other state or territory of the United States, (iii) votes knowing that he is
108 not qualified to vote where and when the vote is to be given, or (iv) procures, assists, or induces
109 another to vote knowing that such person is not qualified to vote where and when the vote is to be
110 given is guilty of a Class 6 felony.

111 C. Any person who intentionally (i) registers to vote at more than one residence address at the same
112 time, whether such registrations are in Virginia or in Virginia and any other state or territory of the
113 United States, or (ii) procures, assists, or induces another to register to vote at more than one address at
114 the same time, whether such registrations are in Virginia or in Virginia and any other state or territory
115 of the United States, is guilty of a Class 6 felony. This subsection shall not apply to any person who,
116 when registering to vote, changing the address at which he is registered, transferring his registration, or
117 assisting another in registering, changing his address, or transferring his registration, provides the
118 information required by § 24.2-418 on the applicant's place of last previous registration to vote.

119 *D. Any person with administrative duties under this title who, prior to the closing of the polls for an*
120 *election, notifies a voter that his absentee ballot for that election has been rejected is guilty of a Class 1*

121 *misdemeanor.*