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HOUSE BILL NO. 2107

Offered January 9, 2013

Prefiled January 9, 2013

A BILL to amend and reenact §§ 24.2-709.1, 24.2-711, and 24.2-712 of the Code of Virginia, relating to elections; absentee voting procedures; counting of absentee ballots.

Patrons—Spruill, Dance, Herring, Hester, Joannou and Toscano; Senators: Alexander and Northam

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-709.1, 24.2-711, and 24.2-712 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-709.1. Alternative procedures for counting absentee ballots.

The electoral board may authorize a *Each* general registrar at his option to *shall* take one or more of the following measures as needed to expedite counting absentee ballots returned by mail before election day: (i) examine the ballot envelopes to verify completion of the required voter affirmation; (ii) mark the pollbook, or the absentee voter applicant list if the pollbook is not available, that the voter has voted; or (iii) open the sealed ballot envelopes and insert the ballots in optical scan counting equipment or other secure ballot container without initiating any ballot count totals. If the board authorizes the opening of general registrar proceeds to open sealed ballot envelopes as provided in clause (iii), at least two officers of election, one representing each political party, shall be present during all hours when a general registrar uses the expedited procedures authorized in this section. No person present while sealed ballot envelopes are opened and ballots are inserted into counting equipment or other secure ballot container pursuant to clause (iii) shall disclose any information concerning the ballots.

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

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

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

§ 24.2-712. Central absentee voter precincts; counting ballots.

A. Notwithstanding any other provision of law, the governing body of each county or city may establish one or more central absentee voter precincts in the courthouse or other public buildings for the purpose of receiving, counting, and recording absentee ballots cast in the county or city. The decision to establish any absentee voter precinct shall be made by the governing body by ordinance; the ordinance shall state for which elections the precinct shall be used. The decision to abolish any absentee voter precinct shall be made by the governing body by ordinance. Immediate notification of either decision shall be sent to the State Board and the electoral board.

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59 B. Each central absentee voter precinct shall have at least three officers of election as provided for
60 other precincts. The number of officers shall be determined by the electoral board.

61 C. If any voter brings an unmarked ballot to the central absentee voter precinct on the day of the
62 election, he shall be allowed to vote it. If any voter brings an unmarked ballot to the electoral board on
63 or before the day of the election, he shall be allowed to vote it, and his ballot shall be delivered to the
64 absentee voter precinct pursuant to § 24.2-710.

65 The officers at the absentee voter precinct shall determine any appeal by any other voter whose name
66 appears on the absentee voter applicant list and who offers to vote in person. If the officers at the
67 absentee voter precinct produce records showing the receipt of his application and the certificate of
68 mailing for the ballot, they shall deny his appeal. If the officers cannot produce such records, the voter
69 shall be allowed to vote in person at the absentee voter precinct and have his vote counted with other
70 absentee votes. If the voter's appeal is denied, the provisions of § 24.2-708 shall be applicable, and the
71 officers shall advise the voter that he may vote on presentation of a statement signed by him that he has
72 not received an absentee ballot and subject to felony penalties for making false statements pursuant to
73 § 24.2-1016.

74 D. Absentee ballots may be processed as required by § 24.2-711 by the officers of election at the
75 central absentee voter precinct prior to the closing of the polls but the ballot container shall not be
76 opened and the counting of ballots shall not begin prior to that time. In the case of punch card or mark
77 sense ballots to be inserted in electronic counting equipment, the ballot container may be opened and the
78 absentee ballots may be inserted in the counting equipment prior to the closing of the polls in
79 accordance with procedures prescribed by the State Board, including procedures to preserve ballot
80 secrecy, but no ballot count totals shall be initiated prior to that time.

81 As soon as the polls are closed in the county or city the officers of election at the central absentee
82 voter precinct shall proceed *promptly* to ascertain and record the vote given by absentee ballot and
83 report the results in the manner provided for counting and reporting ballots generally in Article 4
84 (§ 24.2-643 et seq.) of Chapter 6 of this title.

85 E. The electoral board may provide that the officers of election for a central absentee voter precinct
86 may be assigned to work all or a portion of the time that the precinct is open on election day subject to
87 the following conditions:

88 1. The chief officer and the assistant chief officer, appointed pursuant to § 24.2-115 to represent the
89 two political parties, are on duty at all times; and

90 2. No officer, political party representative, or other candidate representative shall leave the precinct
91 after any ballots have been counted until the polls are closed and the count for the precinct is completed
92 and reported.

93 F. The electoral board, with the written agreement of the general registrar, may provide that the
94 central absentee voter precinct will open after 6:00 a.m. and at any time before noon on the day of the
95 election provided that the office of the general registrar will be open for the receipt of absentee ballots
96 until the central absentee voter precinct is open and that the officers of election for the central absentee
97 voter precinct obtain the absentee ballots returned to the general registrar's office for the purpose of
98 counting the absentee ballots at the central absentee voter precinct and provided further that the central
99 absentee voter precinct is the same location as the office of the general registrar.