

13103449D

SENATE BILL NO. 1062

Offered January 9, 2013

Prefiled January 8, 2013

A BILL to amend and reenact §§ 24.2-103, 24.2-416, 24.2-416.4, 24.2-603, and 24.2-701 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-700.1 and by adding in Chapter 7 of Title 24.2 a section numbered 24.2-714, relating to elections; voter access reforms.

Patrons—Herring; Delegate: Torian

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-103, 24.2-416, 24.2-416.4, 24.2-603, and 24.2-701 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-700.1 and by adding in Chapter 7 of Title 24.2 a section numbered 24.2-714 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. The Board shall post on the Internet within three business days any rules or regulations made by the Board. Upon request and at a reasonable charge not to exceed the actual cost incurred, the State Board shall provide to any requesting political party or candidate, within three days of the receipt of the request, copies of any 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. The Board shall require certification that officers of election have been trained consistent with the training standards set by the Board. Such certification shall be submitted each year prior to the November general election by the local electoral board.

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.

G. The Board shall develop, adopt, and keep current a written plan addressing the continuity of operations of elections in the event of an emergency in conjunction with the Department of Emergency Management. The Board shall conduct a comprehensive review and revision of such plan every four years. For purposes of this subsection, "emergency" means (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 executive order as an emergency for the purposes of this subsection, 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.

INTRODUCED

SB1062

59 *H. The Board shall perform periodic reviews of the conduct of elections and, based on the findings*
60 *of such reviews, develop a written plan for minimizing the amount of time a voter has to wait to cast his*
61 *vote on election day. The plan shall contain a list of the resources necessary to implement the plan. The*
62 *Board shall review the plan annually and update the plan as necessary.*

63 **§ 24.2-416. Closing registration records before elections.**

64 In any county, city, or town in which an election is being held, the registration records shall be
65 closed for the purpose of registering voters on the election day and during the period in advance of the
66 election as provided in this section. The registration records shall be closed during the ~~twenty-eight~~ 28
67 days before a primary or general election. Beginning January 1, 2010, the registration records shall be
68 closed during the 21 days before a primary or general election. *Beginning July 1, 2013, the registration*
69 *records shall be closed during the three days before a primary or general election.* If the registration
70 records have not been closed previously for a primary or general election, they shall be closed during
71 the ~~six~~ three days before a special election called by the Governor, Speaker of the House of Delegates,
72 or President pro tempore of the Senate, or pursuant to rule or resolution of either house of the General
73 Assembly and during the ~~thirteen~~ three days before any other special election.

74 **§ 24.2-416.4. Return of mail voter registration applications.**

75 A. Notwithstanding the provisions of § 24.2-416, a mail voter registration application returned
76 through the United States Postal Service shall be deemed to have been made as of the date of the
77 postmark affixed to such application by the United States Postal Service. If no such postmark is affixed
78 or if the postmark affixed by the United States Postal Service is illegible or bears no date, such
79 application shall be deemed to have been timely if received through the United States mail no later than
80 five days following the time for the closing of the registration books pursuant to § 24.2-416 *the day*
81 *immediately prior to the election.*

82 B. In any other case, a completed mail voter registration application shall be deemed timely if
83 received by any general registrar or any person authorized to receive voter registration applications
84 pursuant to § 24.2-415.1, by the deadline provided for in § 24.2-416 for closing the registration books.

85 **§ 24.2-603. Hours polls to be open; closing the polls.**

86 At all elections, the polls shall be open at each polling place at 6:00 a.m. on the day of the election
87 and closed at ~~7:00~~ 8:00 p.m. on the same day except as provided for central absentee voter precincts
88 pursuant to subsection F of § 24.2-712.

89 At ~~6:45~~ 7:45 p.m. an officer of election shall announce that the polls will close in ~~fifteen~~ 15 minutes.
90 The officers of election shall list the names of all qualified voters in line before the polling place at ~~7:00~~
91 8:00 p.m. and permit those voters and no others to vote after ~~7:00~~ 8:00 p.m.

92 **§ 24.2-700.1. Early voting.**

93 A. Any registered voter may vote early, in accordance with the provisions of this section, in any
94 general, primary, or special election in which he is qualified to vote. A person may register to vote and
95 on the same day vote early pursuant to this section.

96 B. Early voting shall begin on the tenth day before an election and end at 5:00 p.m. on the Saturday
97 immediately preceding the election. Early voting shall be provided during regular office hours each
98 weekday during the applicable period, from 9:00 a.m. to 5:00 p.m. on both Saturdays during the
99 applicable period, and until 8:00 p.m. on the Monday eight days before the election and the immediately
100 following Tuesday, Wednesday, and Thursday. Early voting shall begin on the eighth day before a
101 special election held on a date other than a general election day and end at 5:00 p.m. on the Saturday
102 immediately preceding the election. Notice of the times for early voting shall be given in accordance
103 with the instructions of the State Board.

104 C. Each electoral board shall provide for early voting in the office of the general registrar or
105 secretary of the electoral board and may approve another location or additional locations in the county
106 or city. The State Board shall prescribe instructions for the staffing of early voting locations and
107 procedures for the use of voting equipment that has been certified and is currently approved by the
108 State Board. The procedures shall be applicable and uniformly applied by the State Board to all
109 jurisdictions using comparable voting equipment.

110 D. Each registered voter shall comply with the identification requirements applicable to voting at the
111 polls on election day.

112 E. The provisions of this chapter for in-person absentee voting shall not be applicable during the
113 period for early voting, and early voting procedures shall be deemed to supersede and replace in-person
114 absentee voting procedures during the early voting period.

115 F. The State Board shall provide instructions for the preparation, maintenance, and reporting of
116 ballots, pollbooks, records, and returns for early voting.

117 **§ 24.2-701. Application for absentee ballot.**

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

120 The State Board shall implement a system that enables eligible persons to request and receive an

absentee ballot application ~~electronically through the Internet~~ and to submit a completed absentee ballot application by electronic mail or such other electronic means as may be permitted by the State Board. Electronic absentee ballot applications shall be in a form approved by the State Board and signed by the voter in a manner consistent with the Uniform Electronic Transactions Act (§ 59.1-479 et seq.). The system shall be used for all applications for absentee ballots permitted under this chapter except those cases where a voter is required to apply for an absentee ballot or vote absentee in person.

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.

An application that is completed in person at the same time that the applicant registers to vote shall be held and processed no sooner than the fifth day after the date that the applicant registered to vote; however, this requirement shall not be applicable to any person who is qualified to vote absentee under subdivision 2 of § 24.2-700.

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. Any applicant who does not show one of the forms of identification specified in subsection B of § 24.2-643 shall be offered 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.

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 subdivision 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 postcard application prescribed pursuant to 42 U.S.C. § 1973ff(b)(2). The federal postcard 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

182 the last date of residency at his Virginia residence address, if that residence is no longer available to
183 him. Any person who makes application under subdivision 2 of § 24.2-700 who is not a registered voter
184 may file the applications to register and for a ballot simultaneously;

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

192 4. In the case of a person, or the spouse or dependent of a person, who is on active duty as a
193 member of the uniformed services as defined in § 24.2-452, the branch of service to which he or the
194 spouse belongs, and his or the spouse's rank, grade, or rate, and service identification number; or

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

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

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

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

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

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

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

211 12. In the case of a person who, in the regular and orderly course of his business, profession, or
212 occupation, will be at his place of work and commuting to and from his home to his place of work for
213 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603, the name of his
214 business or employer, address of his place of work, and hours he will be at the workplace and
215 commuting on election day; or

216 13. In the case of a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in
217 § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in
218 § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1, that he is a first
219 responder; or

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

224 **§ 24.2-714. Pilot program for secure electronic voting.**

225 *The Secretary of the State Board of Elections shall have the authority to establish and supervise a*
226 *pilot program or demonstration project in partnership with the U.S. Department of Defense Federal*
227 *Voting Assistance Program or other federal agency for the purpose of allowing voters specified in*
228 *subdivision 2 of § 24.2-700 and military voters with disabilities and injuries to vote absentee by secure*
229 *electronic means or new technologies. Ballots cast pursuant to this section shall be valid for all*
230 *purposes.*