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1   **SENATE BILL NO. 207**
2   Senate Amendments in [ ] - February 1, 2012
3 *A BILL to amend and reenact §§ 24.2-105.1, 24.2-603, and 24.2-603.1 of the Code of Virginia, relating*
4   *to elections; information and polling hours; emergencies; extension of polling hours.*
5   —————————
             Patron Prior to Engrossment—Senator Barker
6   —————————
7   Referred to Committee on Privileges and Elections
8   —————————
9   **Be it enacted by the General Assembly of Virginia:**
10 **1. That §§ 24.2-105.1, 24.2-603, and 24.2-603.1 of the Code of Virginia are amended and reenacted**
11 **as follows:**
12   § 24.2-105.1. Election and voter participation information on the Internet.
13   Beginning with the general election in November 1998, the State Board shall implement a system by
14 which it shall furnish lists of candidates for all elections in the Commonwealth, and information on
15 proposed constitutional amendments and statewide referenda prepared pursuant to §§ 30-19.9 and
16 30-19.10, electronically through the Internet. The Board may list other referenda issues on the Internet.
17 The lists and information shall be made available on the Internet as far in advance of the election as
18 practicable and remain available on the Internet at least until the day after the election.
19   The State Board shall provide election results and statistical information on its website. The
20 information shall include voter turnout information which shall be calculated as the percentage of active
21 voters who voted excluding voters assigned to inactive status pursuant to Chapter 4 (§ 24.2-400 et seq.).
22 The information shall also include the total number of registered voters and the number assigned to
23 inactive status.
24   *No election results for an election conducted in whole or in part within an area affected by a court*
25 *order issued pursuant to § 24.2-603.1 to extend polling hours shall be made public by the State Board*
26 *or any electoral board or general registrar until the close of all of the polls in the area affected by the*
27 *court order. In addition, no election results for an election conducted in whole or in part within an area*
28 *affected by a court order issued pursuant to § 24.2-603.1 to extend polling hours shall be made public*
29 *by the State Board or any electoral board or general registrar for any election on the ballot in an*
30 *affected jurisdiction until the close of all of the polls in the area affected by the court order.*
31   § 24.2-603. Hours polls to be open; closing the polls.
32   *A.* At all elections, the polls shall be open at each polling place at 6:00 a.m. on the day of the
33 election and closed at 7:00 p.m. on the same day except as provided for central absentee voter precincts
34 pursuant to subsection F of § 24.2-712.
35   At 6:45 p.m. an officer of election shall announce that the polls will close in ~~fifteen~~ *15* minutes. The
36 officers of election shall list the names of all qualified voters in line before the polling place at 7:00
37 p.m. and permit those voters and no others to vote after 7:00 p.m.
38   *B. If the hours for the polls to be open are extended pursuant to § 24.2-603.1, at 6:45 p.m. an*
39 *officer of election shall announce that the polls had been scheduled to close in 15 minutes and inform*
40 *voters of the new closing time. The officers of election shall list the names of all qualified voters in line*
41 *before the polling place at 7:00 p.m. and permit those voters to vote after 7:00 p.m. Fifteen minutes*
42 *before the polls are finally scheduled to close, an officer of election shall announce that the polls will*
43 *close in 15 minutes. The officers of election shall list the names of all qualified voters in line before the*
44 *polling place when polls close and permit those voters and no others to cast a provisional ballot in*
45 *accordance with § 24.2-653 after the polls close.*
46   § 24.2-603.1. Postponement of certain elections; state of emergency.
47   *A.* For purposes of this section, "election" means (i) any local or state referendum, (ii) any primary,
48 special, or general election for local or state office except a general election for Governor, Lieutenant
49 Governor, Attorney General and the General Assembly, (iii) any primary for federal office including any
50 primary for the nomination of candidates for the office of President of the United States, or (iv) any
51 federal special election to fill a vacancy in the United States Senate or the United States House of
52 Representatives. In the event of a state of emergency declared by the Governor pursuant to Chapter 3.2
53 (§ 44-146.13 et seq.) of Title 44 or declared by the President of the United States or the governor of
54 another state pursuant to law and confirmed by the Governor by an executive order, the Governor may
55 postpone an election by executive order in areas affected by the emergency to a date, notwithstanding
56 the provisions of § 24.2-682, not to exceed 14 days from the original date of the election.
57   If a local governing body determines that a longer postponement is required, it may petition a
58 three-judge panel of the Virginia Supreme Court, to include the Chief Justice as the presiding Justice,

59 for an extension. The Chief Justice shall choose the other two Justices by lot. The Court may postpone
60 the election to a date it deems appropriate, notwithstanding the provisions of § 24.2-682, not to exceed
61 30 days from the original date of the election.
62   Only those persons duly registered to vote as of the original date of the election shall be entitled to
63 vote in the rescheduled election.
64   If, as a direct result of the emergency, any ballots already cast at the polling places or equipment on
65 which ballots have been cast, or any voted absentee ballots already received by the appropriate election
66 officials or any equipment on which absentee ballots have already been cast have been destroyed or
67 otherwise damaged so that such ballots cannot be counted by the counting device or counted manually,
68 the Governor (i) shall specify that such ballots or votes previously cast by machinery or paper need to
69 be recast on or by the rescheduled election date so that they may be counted and (ii) shall direct the
70 appropriate election officials to immediately send replacement absentee ballots to all absentee voters
71 whose voted ballots are known to have been so destroyed or damaged. Such instructions may be issued
72 by executive order separately from the executive order postponing the election. Any absentee ballots
73 duly cast and received by the rescheduled election date and able to be counted shall be valid and
74 counted when determining the results of the rescheduled election; however, if more than one absentee
75 ballot is received from any voter, only the first absentee ballot received and able to be counted shall be
76 counted. Any person who was duly registered to vote as of the original date of the election, and who
77 has not voted, or who is permitted to recast their ballot due to the emergency, may vote by absentee
78 ballot in accordance with the provisions of Chapter 7 (§ 24.2-700 et seq.) ~~of~~ this ~~title~~ in the rescheduled
79 election. Official ballots shall not be invalidated on the basis that they contain the original election date.
80   If the postponement of the election is ordered after voting at the polls on the original election date
81 has already commenced, all qualified voters in a precinct in which any voted ballots, voting equipment
82 containing voted ballots or pollbooks recording who has already voted in that precinct have been
83 destroyed or damaged as a direct result of the emergency, so that the votes cannot be counted or it
84 cannot be determined who has already voted, shall be allowed to vote in the rescheduled election, and
85 no votes cast at the polls on the original election date shall be counted. If the postponement of the
86 election is ordered after voting at the polls on the original election date has already commenced and no
87 ballots cast at the polls, voting equipment containing voted ballots or pollbooks recording who has
88 already voted in that election in that precinct have been destroyed or damaged as a direct result of the
89 emergency, only qualified voters who had not yet voted shall be eligible to vote on the rescheduled
90 election day and all votes cast on the original and postponed election dates shall be counted at the close
91 of the polls on the rescheduled election day.
92   The provisions of § 24.2-663 requiring the voiding of all ballots received from any voter who votes
93 more than once in the same election shall not apply to ballots otherwise lawfully cast or recast pursuant
94 to this section; however, no more than one ballot may be counted from any voter in the same election.
95 If one ballot has already been counted, any additional ballots from the same voter shall be void and
96 shall not be counted. The provisions of § 24.2-1004 or any other law prohibiting any voter from voting
97 more than once in the same election, or any oath attesting to the same, shall not apply to ballots
98 otherwise lawfully cast or recast pursuant to this section.
99   No results shall be tallied or votes counted in any postponed election before the closing of the polls
100 on the rescheduled election date. Officers of election in unaffected areas shall count and report the
101 results for the postponed election after the close of the polls on the rescheduled election date. The
102 counting may take place at the precinct or another location determined by the local electoral board.
103   *B. In the event of a state of emergency declared by the Governor pursuant to Chapter 3.2*
104 *(§ 44-146.13 et seq.) of Title 44 or declared by the President of the United States [~~or the governor of~~*
105 *~~another state pursuant to law and confirmed by the Governor by an executive order~~] , or a disaster or*
106 *emergency circumstance not constituting a declared state of emergency that directly interferes with the*
107 *electoral process or that interferes with the right or ability of voters to travel to the polls, the Secretary*
108 *of the State Board of Elections or the state chair of a political party may petition [~~the Circuit Court for~~*
109 *~~the City of Richmond~~ a three-judge panel of the Virginia Supreme Court selected by the Chief Justice]*
110 *to extend the hours for which the polls shall be open in the affected area. The petitioning party shall*
111 *notify all other parties authorized to make such a petition prior to filing the petition with the court.*
112   *The court may extend the hours that the polls will remain open, for a time determined by the court*
113 *to be appropriate to address the circumstances, for any geographic area, provided that such a*
114 *determination results in the same closing time for all precincts within each affected county, city, or*
115 *town. When making its determination, the court may limit the affected geographic area to one county,*
116 *city, or town only with the consent of the Secretary of the State Board of Elections and the state chairs*
117 *of the two political parties that received the most votes in the most recent gubernatorial election. When*
118 *making such a determination, the [~~judge~~ justices] shall consider evidence presented by all parties*
119 *authorized to petition the court, including which voters may be unable to vote because of the emergency.*
120 *The court order shall also have the effect of extending all other post-election deadlines specified in this*

121 *chapter for an equivalent period of time in each affected county, city, or town. The court order shall be*
122 *issued no later than one hour before the closing time in effect for the affected polls at that time. In no*
123 *event shall the closing time be extended by more than three hours.*
124   *The court shall notify each affected local electoral board that the hours the polls shall be extended,*
125 *which notice shall show the nature of the emergency, the localities affected, and the new time that the*
126 *polls shall close.*
127   *C.* The State Board shall prescribe appropriate procedures to implement this section.