

# VIRGINIA ACTS OF ASSEMBLY -- 2015 SESSION

## CHAPTER 712

*An Act to amend and reenact §§ 24.2-405, 24.2-406, 24.2-407.1, and 24.2-653 of the Code of Virginia, relating to lists of registered voters and persons who voted in certain elections.*

[H 2056]

Approved March 27, 2015

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 24.2-405, 24.2-406, 24.2-407.1, and 24.2-653 of the Code of Virginia are amended and reenacted as follows:**

**§ 24.2-405. Lists of registered voters.**

A. The ~~State Board~~ *Department of Elections* shall ~~furnish~~ *provide*, at a reasonable price, lists of registered voters for their districts to (i) courts of the Commonwealth and the United States for jury selection purposes, (ii) candidates for election or political party nomination to further their candidacy, (iii) political party committees or officials thereof for political purposes only, (iv) political action committees that have filed a current statement of organization with the ~~State Board~~ *Department of Elections* pursuant to § 24.2-949.2, or with the Federal Elections Commission pursuant to federal law, for political purposes only, (v) incumbent officeholders to report to their constituents, (vi) nonprofit organizations that promote voter participation and registration for that purpose only, and (vii) commissioners of the revenue, as defined in § 58.1-3100, and treasurers, as defined in § 58.1-3123, for tax assessment, collection, and enforcement purposes. The lists shall be furnished to no one else and used for no other purpose. However, the ~~State Board~~ *Department of Elections* is authorized to furnish information from the voter registration system to general registrars for their official use and to the Department of Motor Vehicles and other appropriate state agencies for maintenance of the voter registration system, and to the Chief Election Officers of other states for maintenance of voter registration systems.

B. The ~~State Board~~ *Department of Elections* shall furnish, at a reasonable price, lists of the addresses of registered voters for their localities to local government census liaisons and their staffs for the sole purpose of providing address information to the United States Bureau of the Census. The ~~State Board~~ *Department of Elections* shall also furnish, at a reasonable price, such lists to the Clerk of the Senate and the Clerk of the House of Delegates for the sole purpose of maintaining a database of constituent addresses for the General Assembly. The information authorized under this subsection shall be furnished to no other person and used for no other purpose. No list furnished under this subsection shall contain the name of any registered voter. For the purpose of this subsection, the term "census liaison" shall have the meaning provided in 13 U.S.C. § 16.

C. In no event shall any list furnished under this section contain the social security number, or any part thereof, of any registered voter except a list furnished to a court of the Commonwealth or of the United States for jury selection purposes, a commissioner of the revenue or a treasurer for tax assessment, collection, and enforcement purposes, or to the Chief Election Officer of another state permitted to use social security numbers, or any parts thereof, that provides for the use of such numbers on applications for voter registration in accordance with federal law, for maintenance of voter registration systems.

D. Any list furnished under subsection A ~~of 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.

**§ 24.2-406. Lists of persons voting at elections.**

A. The ~~State Board~~ *Department of Elections* shall furnish, at a reasonable price, lists of persons who voted at any primary, special, or general election held in the four preceding years to (i) candidates for election or political party nomination to further their candidacy, (ii) political party committees or officials thereof for political purposes only, (iii) political action committees that have filed a current statement of organization with the ~~State Board~~ *Department of Elections* pursuant to § 24.2-949.2 or with the Federal Elections Commission pursuant to federal law, for political purposes only, (iv) incumbent officeholders to report to their constituents, and (v) members of the public or a nonprofit organization seeking to promote voter participation and registration by means of a communication or mailing without intimidation or pressure exerted on the recipient, for that purpose only. Such lists shall be furnished to no one else and shall be used only for campaign and political purposes and for reporting to constituents. Unless such lists are not available due to a pending recount or election contest, the electoral board shall submit the list of persons who voted to the ~~State Board~~ *Department of Elections* within ~~60~~ 14 days after each election, *unless such lists are not available due to a pending recount or election contest. The*

*electoral boards of localities using nonelectronic pollbooks shall submit the list of persons who voted to the Department of Elections within seven days after the pollbooks are released from the possession of the clerk of court. The ~~State Board~~ Department of Elections shall make available such lists no later than seven days after receiving them from the electoral board.*

B. The ~~State Board~~ Department of Elections shall furnish to the Chief Election Officer of another state, on request and at a reasonable price, lists of persons who voted at any primary, special, or general election held for the four preceding years. Such lists shall be used only for the purpose of maintenance of voter registration systems and shall be transmitted in accordance with security policies approved by the State Board of Elections.

C. In no event shall any list furnished under this section contain the social security number, or any part thereof, of any registered voter, except for a list furnished to the Chief Election Officer of another state permitted to use social security numbers, or any parts thereof, that provides for the use of such numbers on applications for voter registration in accordance with federal law, for maintenance of voter registration systems.

D. Any list furnished 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.

**§ 24.2-407.1. Prohibition on disclosure of social security numbers or parts thereof.**

It shall be unlawful for any person who has obtained, under § 24.2-405 or 24.2-406 or any prior law, a list of persons registered or voting which contained social security numbers, or any parts thereof, to disclose any voter's social security number, or any part thereof, to any other person. Any person maintaining a system containing social security numbers, or any parts thereof, obtained from the Board or the Department of Elections shall delete or destroy the portion of his records containing those numbers, except for a list furnished to a court of the Commonwealth or of the United States for jury selection purposes, a commissioner of the revenue, as defined in § 58.1-3100, or a treasurer, as defined in § 58.1-3123, for tax assessment, collection, and enforcement purposes, or the Chief Election Officer of another state, permitted to use social security numbers, or any parts thereof, that provides for the use of such numbers on applications for voter registration in accordance with federal law, for the purpose of matching voter registration lists.

**§ 24.2-653. Voter whose name does not appear on pollbook or who is marked as having voted; 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 printed ballot in the manner provided in this section. This procedure shall also apply when required by § 24.2-643 or 24.2-651.1.

Such person shall be given a printed 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~~ Department of Elections, the identifying information required on the envelope, including the last four digits of his social security number, if any, full name including the maiden or any other prior legal name, date of birth, complete address, and signature. Such person shall be asked to present one of the forms of identification specified in subsection B of § 24.2-643. The officers of election shall note on the green envelope whether or not the voter has presented 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 printed ballot as provided in § 24.2-644 and seal it in the green envelope. The envelope containing the ballot shall then promptly be placed in the ballot container by an officer of election.

An officer of election, by a written notice given to the voter, shall (i) inform him that a determination of his right to vote shall be made by the electoral board, (ii) 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, and (iii) inform a voter voting provisionally when required by § 24.2-643 that he may submit a copy of one of the forms of identification specified in subsection B of § 24.2-643 to the electoral board by facsimile, electronic mail, in-person submission, or timely United States Postal Service or commercial mail delivery, to be received by the electoral board no later than noon on the third day after the election. At the meeting, the voter may request an extension of the determination of the provisional vote 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 as provided in subsection A, the meeting shall stand adjourned, 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 as an observer so long as he does not participate in the proceedings and 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 candidate and signed by the county or city chairman of his political party, the independent candidate, or the primary candidate, as appropriate. Such statement, bearing the chairman's or candidate's original signature, may be photocopied and such photocopy shall be as valid as if the copy had been signed.

Notwithstanding the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), attendance at meetings of the electoral board to determine the validity of provisional ballots shall be permitted only for the authorized representatives provided for in this subsection, for the persons whose provisional votes are being considered and their representative or legal counsel, and for appropriate staff and legal counsel for the electoral board.

If the electoral board determines that such person was not entitled to vote as a qualified voter in the precinct in which he offered the provisional vote, is unable to determine his right to vote, or has not been provided one of the forms of identification specified in subsection B of § 24.2-643, the envelope containing his ballot shall not be opened and his vote shall not be counted. The provisional vote shall be counted if (a) such person is entitled to vote in the precinct pursuant to § 24.2-401 or (b) the ~~State Board~~ *Department of Elections* or the voter presents proof that indicates the voter submitted an application for registration to the Department of Motor Vehicles or other state-designated voter registration agency prior to the close of registration pursuant to § 24.2-416 and the registrar determines that the person was qualified for registration based upon the application for registration submitted by the person pursuant to subsection A. The general registrar shall notify in writing pursuant to § 24.2-114 those persons found not properly registered or whose provisional vote was not counted.

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

On completion of its determination, the electoral board shall proceed to count such ballots and certify the results of its count. Its certified results shall be added to those found pursuant to § 24.2-671. No adjustment shall be made to the statement of results for the precinct in which the person offered to vote. *However, any voter who cast a provisional ballot and is determined by the electoral board to have been entitled to vote shall have his name included on the list of persons who voted that is submitted to the Department of Elections pursuant to § 24.2-406.*

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

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