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HOUSE BILL NO. 1333

Offered January 14, 2015

Prefiled November 24, 2014

A BILL to amend and reenact §§ 24.2-604, 24.2-639, 24.2-653, and 24.2-655 of the Code of Virginia, relating to polling places; designation of authorized representatives of political parties.

Patrons—Campbell and Sullivan

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-604, 24.2-639, 24.2-653, and 24.2-655 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-604. Prohibited activities at polls; notice of prohibited area; electioneering; presence of representatives of parties or candidates; simulated elections; observers; news media; penalties.

A. During the times the polls are open and ballots are being counted, it shall be unlawful for any person (i) to loiter or congregate within 40 feet of any entrance of any polling place; (ii) within such distance to give, tender, or exhibit any ballot, ticket, or other campaign material to any person or to solicit or in any manner attempt to influence any person in casting his vote; or (iii) to hinder or delay a qualified voter in entering or leaving a polling place.

B. Prior to opening the polls, the officers of election shall post, in the area within 40 feet of any entrance to the polling place, sufficient notices which state "Prohibited Area" in two-inch type. The notices shall also state the provisions of this section in not less than 24-point type. The officers of election shall post the notices within the prohibited area to be visible to voters and the public.

C. The officers of election shall permit 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, to remain in the room in which the election is being conducted at all times. A representative may serve part of the day and be replaced by successive representatives. The officers of election shall have discretion to permit up to three authorized representatives of each political party or independent candidate in a general or special election, or up to three authorized representatives of each candidate in a primary election, to remain in the room in which the election is being conducted. The officers shall permit one such representative for each pollbook station. However, no more than one such representative for each pollbook station or three representatives of any political party or independent candidate, whichever number is larger, shall be permitted in the room at any one time. Each authorized representative shall be a qualified voter of any jurisdiction of the Commonwealth. Each representative shall present to the officers of election a written statement designating him to be a representative of the party or candidate and signed by the *state, district, 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. No candidate whose name is printed on the ballot shall serve as a representative of a party or candidate for purposes of this section. Authorized representatives shall be allowed, whether in a regular polling place or central absentee voter precinct, to be close enough to the voter check-in table to be able to hear and see what is occurring; however, such observation shall not violate the secret vote provision of Article II, Section 3 of the Constitution of Virginia or otherwise interfere with the orderly process of the election. Any representative who complains to the chief officer of election that he is unable to hear or see the process may accept the chief officer's decision or, if dissatisfied, he may immediately appeal the decision to the local electoral board. Authorized representatives shall be allowed, whether in a regular polling place or central absentee voter precinct, to use a handheld wireless communications device, except that authorized representatives shall not be allowed to use such devices when they contain a camera or other imaging device to film or photograph inside a polling place or central absentee voter precinct. The officers of election may prohibit the use of cellular telephones or other handheld wireless communications devices if such use will result in a violation of subsection A or D or § 24.2-607. Authorized representatives shall not be allowed in any case to provide assistance to any voter as permitted under § 24.2-649 or to wear any indication that they are authorized to assist voters either inside the polling place or within 40 feet of any entrance to the polling place.

D. It shall be unlawful for any authorized representative, voter, or any other person in the room to (i) hinder or delay a qualified voter; (ii) give, tender, or exhibit any ballot, ticket, or other campaign material to any person; (iii) solicit or in any manner attempt to influence any person in casting his vote; (iv) hinder or delay any officer of election; (v) be in a position to see the marked ballot of any other

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59 voter; or (vi) otherwise impede the orderly conduct of the election.

60 E. The officers of election may require any person who is found by a majority of the officers present
61 to be in violation of this section to remain outside of the prohibited area. Any person violating
62 subsection A or D shall be guilty of a Class 1 misdemeanor.

63 F. This section shall not be construed to prohibit a candidate from entering any polling place on the
64 day of the election to vote, or to visit a polling place for no longer than 10 minutes per polling place
65 per election day, provided that he complies with the restrictions stated in subsections A, D, and K.

66 G. This section shall not be construed to prohibit a minor from entering a polling place on the day
67 of the election to vote in a simulated election at that polling place, provided that the local electoral
68 board has determined that such polling place can accommodate simulated election activities without
69 interference or substantial delay in the orderly conduct of the official voting process. Persons supervising
70 or working in a simulated election in which minors vote may remain within such polling place. The
71 local electoral board and the chief officer for the polling place shall exercise authority over, but shall
72 have no responsibility for the administration of, simulated election related activities at the polling place.

73 H. A local electoral board, and its general registrar, may conduct a special election day program for
74 high school students, selected by the electoral board in cooperation with high school authorities, in one
75 or more polling places designated by the electoral board, other than a central absentee voter precinct.
76 The program shall be designed to stimulate the students' interest in elections and registering to vote,
77 provide assistance to the officers of election, and ensure the safe entry and exit of elderly and disabled
78 voters from the polling place. Each student shall take and sign an oath as an election page, serve under
79 the direct supervision of the chief officer of election of his assigned polling place, and observe strict
80 impartiality at all times. Election pages may observe the electoral process and seek information from the
81 chief officer of election, but shall not handle or touch ballots, voting machines, or any other official
82 election materials, or enter any voting booth.

83 I. A local electoral board may authorize in writing the presence of additional neutral observers as it
84 deems appropriate, except as otherwise prohibited or limited by this section. Such observers shall
85 comply with the restrictions in subsections A and D and shall not be allowed in any case to provide
86 assistance to any voter as permitted under § 24.2-649 or to wear any indication that they are authorized
87 to assist voters either inside the polling place or within 40 feet of any entrance to the polling place.

88 J. The officers of election shall permit representatives of the news media to visit and film or
89 photograph inside the polling place for a reasonable and limited period of time while the polls are open.
90 However, the media (i) shall comply with the restrictions in subsections A and D; (ii) shall not film or
91 photograph any person who specifically asks the media representative at that time that he not be filmed
92 or photographed; (iii) shall not film or photograph the voter or the ballot in such a way that divulges
93 how any individual voter is voting; and (iv) shall not film or photograph the voter list or any other voter
94 record or material at the precinct in such a way that it divulges the name or other information
95 concerning any individual voter. Any interviews with voters, candidates or other persons, live
96 broadcasts, or taping of reporters' remarks, shall be conducted outside of the polling place and the
97 prohibited area. The officers of election may require any person who is found by a majority of the
98 officers present to be in violation of this subsection to leave the polling place and the prohibited area.

99 K. The provisions of subsections A and D shall not be construed to prohibit a person who
100 approaches or enters the polling place for the purpose of voting from wearing a shirt, hat, or other
101 apparel on which a candidate's name or a political slogan appears or from having a sticker or button
102 attached to his apparel on which a candidate's name or a political slogan appears. This exemption shall
103 not apply to candidates, representatives of candidates, or any other person who approaches or enters the
104 polling place for any purpose other than voting.

105 **§ 24.2-639. Duties of officers of election.**

106 The officers of election of each precinct at which voting or counting machines are used shall meet at
107 the polling place by 5:15 a.m. on the day of the election and arrange the equipment, furniture, and other
108 materials for the conduct of the election. The officers of election shall verify that all required equipment,
109 ballots, and other materials have been delivered to them for the election. The officers shall post at least
110 two instruction cards for direct recording electronic machines conspicuously within the polling place.

111 The keys to the equipment and any electronic activation devices that are required for the operation of
112 electronic voting equipment shall be delivered, prior to the opening of the polls, to the officer of
113 election designated by the electoral board in a sealed envelope on which has been written or printed the
114 name of the precinct for which it is intended. The envelope containing the keys and any electronic
115 activation devices shall not be opened until all of the officers of election for the precinct are present at
116 the polling place and have examined the envelope to see that it has not been opened. The equipment
117 shall remain locked against voting until the polls are formally opened and shall not be operated except
118 by voters in voting.

119 Before opening the polls, each officer shall examine the equipment and see that no vote has been
120 cast and that the counters register zero. The officers shall conduct their examination in the presence of

the following party and candidate representatives: 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, if such representatives are available. 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 officers of election a written statement designating him to be a representative of the party or candidate and signed by the *state, district, 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.

If any counter, other than a protective or private counter, on a ballot scanner or direct recording electronic machine is found not to register zero, the officers of election shall immediately notify the electoral board which shall, if possible, substitute a machine in good working order, that has been prepared and tested pursuant to § 24.2-634. No ballot scanner or direct recording electronic machine shall be used if any counter, other than a protective or private counter, is found not to register zero.

§ 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, 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

182 remain in the room in which the determination is being made as an observer so long as he does not
183 participate in the proceedings and does not impede the orderly conduct of the determination. Each
184 authorized representative shall be a qualified voter of any jurisdiction of the Commonwealth. Each
185 representative, who is not himself a candidate or party chairman, shall present to the electoral board a
186 written statement designating him to be a representative of the party or candidate and signed by the
187 state, district, county, or city chairman of his political party, the independent candidate, or the primary
188 candidate, as appropriate. Such statement, bearing the chairman's or candidate's original signature, may
189 be photocopied and such photocopy shall be as valid as if the copy had been signed.

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

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

206 If the electoral board determines that such person was entitled to vote, the name of the voter shall be
207 entered in a provisional votes pollbook and marked as having voted, the envelope shall be opened, and
208 the ballot placed in a ballot container without any inspection further than that provided for in
209 § 24.2-646.

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

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

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

227 **§ 24.2-655. Representatives of political parties and candidates to be present on request.**

228 Before proceeding to ascertain the vote, the officers of election shall determine whether no more than
229 two representatives of each political party having candidates in the election and one representative of
230 each independent candidate or primary candidate request to be present while the absentee ballots are
231 cast, votes are counted, and returns are completed.

232 Each representative shall be a qualified voter of any jurisdiction in the Commonwealth and shall
233 present to the officers of election a written statement certifying that he is an authorized representative,
234 signed by ~~his party~~ *the state or district chairman of his political party or the chairman of his political*
235 *party* for the jurisdiction in which the election is held, the independent candidate, or the candidate in a
236 primary, as appropriate. Such representatives shall be entitled to be present while the votes are counted
237 and shall remain until the returns are completed.

238 In case such representatives, or any of them, do not request to be present, the officers shall notify the
239 bystanders, if any, and select one or more to be present with any available representatives of the parties
240 or candidates so that there are as many as four bystanders and representatives present.

241 The representatives and bystanders lawfully present shall have an unobstructed view of the officers of
242 election and their actions while the absentee ballots are cast, votes are counted, and returns are
243 completed. The representatives and bystanders lawfully present are prohibited from interfering with the

244 officers of election in any way.