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SENATE BILL NO. 1252

Offered January 11, 2017

Prefiled January 10, 2017

A BILL to amend and reenact §§ 24.2-709.1, 24.2-710, and 24.2-711 of the Code of Virginia, relating to absentee voting; signature verification.

Patron—Obenshain

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-709.1, 24.2-710, and 24.2-711 of the Code of Virginia are amended and reenacted as follows:

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

Each general registrar 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 general registrar ~~proceeds to open sealed ballot envelopes~~ chooses to proceed as provided in clause (ii) or (iii), at least two ~~three~~ officers of election, at least one representing each political party, shall be present during all hours when a general registrar uses the expedited procedures authorized in this section, and the ballot shall be processed in accordance with the provisions of § 24.2-711. 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.

§ 24.2-710. Further duties of electoral board and general registrar; absentee voter applicant lists.

A. On receipt of an absentee ballot, the electoral board or general registrar shall mark the date of receipt in the appropriate column opposite the name and address of the voter on the absentee voter applicant list maintained in the general registrar's office. A board member or registrar shall deposit the return envelope and the unopened ballot envelope in an appropriate container provided for the purpose, in which they shall remain until the day of the election.

B. On the day before the election, the general registrar shall (i) make out in triplicate on a form prescribed by the State Board the absentee voter applicant list containing the names of all persons who applied for an absentee ballot through the third day before the election and (ii) by noon on the day before the election, deliver two copies of the list to the electoral board. The general registrar shall make out a supplementary list containing the names of all persons voting absentee in person pursuant to §§ 24.2-705.1 and 24.2-705.2, or applying to vote absentee pursuant to § 24.2-705, for delivery by 5:00 p.m. on the day before the election. The supplementary list shall be deemed part of the absentee voter applicant list and shall be prepared and delivered in accordance with the instructions of the State Board. The general registrar shall maintain one copy of the list in his office for two years as a public record open for inspection upon request during regular office hours.

No later than 5:00 p.m. on the day before the election, the general registrar shall deliver to the electoral board copies of the voter registration applications for each voter who applied for and was mailed an absentee ballot. The copies of such applications shall be sorted by precinct and placed in separate containers.

On the day before the election, the electoral board shall deliver one copy of the list provided to it by the general registrar to the chief officer of election for each precinct. The list shall be attested by the secretary of the electoral board who shall be responsible for the delivery of the attested lists to the chief officer of election for each precinct.

Absentee ballots shall be accepted only from voters whose names appear on the attested list.

C. Before the polls close on the day of the election, the electoral board shall deliver the absentee ballot containers and containers of copies of voter registration applications to, and obtain a receipt from, the officers of election at each appropriate precinct. Any ballot returned to the electoral board or general registrar prior to the closing of the polls, but after the ballot container has been delivered, shall be delivered in an appropriate ballot container to the officers of election at each appropriate precinct. The ballot containers and containers of copies of voter registration applications shall be sealed prior to delivery to the officers and. The ballot containers shall contain the sealed absentee ballots, the

59 accompanying return envelopes, and a copy of the absentee voter applicant list for each precinct.

60 If the county or city uses a central absentee voter precinct pursuant to § 24.2-712, the lists and
61 containers shall be delivered, as provided in this section, to the officers of election for the absentee
62 precinct.

63 D. Before noon on the day following the election, the general registrar shall deliver all applications
64 for absentee ballots for the election, under seal, to the clerk of the circuit court for the county or city,
65 except that the general registrar may retain all applications for absentee ballots until the electoral board
66 has ascertained the results of the election pursuant to § 24.2-671, and has determined the validity of and
67 counted all provisional ballots pursuant to § 24.2-653, at which point all applications shall then be
68 delivered, under seal, to the clerk of the circuit court for the county or city. The clerk shall retain the
69 sealed applications with the counted ballots.

70 The secretary of the electoral board shall deliver all absentee ballots received after the election to the
71 clerk of the circuit court.

72 E. Upon request, the State Board shall provide an electronic copy of the absentee voter applicant list
73 to any political party or candidate. Such lists shall be used only for campaign and political purposes. In
74 no event shall any list furnished under this section contain (i) any voter's social security number or any
75 part thereof, (ii) any voter's day and month of birth, or (iii) the residence address of any voter who has
76 provided a post office box address to be used on public lists pursuant to § 24.2-418.

77 **§ 24.2-711. Duties of officers of election.**

78 A. Before the polls open, the officers of election at each precinct shall mark, for each person on the
79 absentee voter applicant list, the letters "AB" (meaning absentee ballot) in the voting record column on
80 the pollbook. The pollbook may be so marked prior to election day by the general registrar, the
81 secretary of the electoral board, or staff under the direction of the general registrar or the secretary, or
82 when the pollbook is produced by the State Board pursuant to § 24.2-404. If the pollbook has been
83 marked prior to election day, before the polls open the officers of election at each precinct shall check
84 the marks for accuracy and make any additions or corrections required.

85 The chief officer of election shall keep the copy of the absentee voter applicant list in the polling
86 place as a public record open for inspection upon request at all times while the polls are open.

87 If a voter, whose name appears on the absentee voter applicant list, has not returned an unused ballot
88 and offers to vote in his precinct, the officers of election in the precinct shall determine the matter
89 pursuant to §§ 24.2-653.1 and 24.2-708.

90 B. Immediately after the close of the polls, the container of absentee ballots *and the container of*
91 *copies of voter registration applications* shall be opened by the officers of election. As each ballot
92 envelope is removed from the container, the name of the voter shall be called and checked as if the
93 voter were voting in person. *The signature on the ballot envelope shall be compared with the signature*
94 *on the copy of the voter's voter registration application. If three officers of election, including one*
95 *representing each political party, agree that the signatures match, the voter shall be entitled to vote.*
96 *However, if fewer than three officers of election agree that the signatures match, the unopened ballot*
97 *envelope and corresponding copy of the voter's voter registration application shall be sealed in an*
98 *envelope marked AB-Signature, to be reviewed by the electoral board at its meeting held pursuant to*
99 *§ 24.2-653. At such meeting, if the electoral board determines that the signature on the ballot envelope*
100 *and the copy of the voter's voter registration application match, the ballot shall be counted. However, if*
101 *the electoral board determines that the signatures do not match, the ballot shall not be counted and*
102 *copies of the ballot envelope and the copy of the voter's voter registration application shall be provided*
103 *to the appropriate attorney for the Commonwealth. The voter shall be notified in writing of the decision*
104 *of and actions taken by the electoral board.*

105 1. If the voter is found entitled to vote, an officer shall mark the voter's name on the pollbook with
106 the first or next consecutive number from the voter count form, or shall enter that the voter has voted if
107 the pollbook is in electronic form. The ballot envelope shall then be opened, and the ballot deposited in
108 the ballot container without being unfolded or examined.

109 2. If the voter is found not entitled to vote, the unopened envelope shall be rejected. An unopened
110 envelope shall not be rejected on the sole basis of a voter's failure to provide (i) in the statement on the
111 back of the unopened envelope his full middle name or his middle initial, unless the voter also failed to
112 provide his full first and last name: ~~An unopened envelope shall not be rejected on the sole basis of a~~
113 ~~voter's failure to provide, or (ii) the date, or any part of the date, including the year, on which he signed~~
114 the statement printed on the back of the envelope. A majority of the officers shall write and sign a
115 statement of the cause for rejection on the envelope or on an attachment to the envelope.

116 C. When all ballots have been accounted for and either voted or rejected, the officers shall place (i)
117 the empty ballot envelopes, the return envelopes, and any rejected ballot envelopes, in one envelope
118 provided for the purpose and (ii) the AB-Signature envelopes in another envelope provided for the
119 purpose and seal and deliver ~~it~~ both with the ballots cast at the election as provided in this title.