

VIRGINIA ACTS OF ASSEMBLY -- 2020 SESSION

CHAPTER 1148

An Act to amend and reenact §§ 24.2-103, 24.2-109, 24.2-111, 24.2-114, and 24.2-115.2 of the Code of Virginia, relating to general registrars; certification requirement; removal from office.

[H 1362]

Approved April 11, 2020

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-103, 24.2-109, 24.2-111, 24.2-114, and 24.2-115.2 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-103. Powers and duties in general.

A. The State Board, through the Department of Elections, 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 State Board and shall follow (i) the elections laws and (ii) the rules and regulations of the State Board insofar as they do not conflict with Virginia or federal law. The State Board shall post on the Internet within three business days any rules or regulations made by the State 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 State Board, through the Department of Elections, 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.

C. *The State Board, through the Department of Elections, shall conduct a certification program for the general registrars and shall require each general registrar to receive certification through such program from the Department within 12 months of his initial appointment or any subsequent reappointment. The State Board may grant a waiver requested by a local electoral board to extend, on a case-by-case basis, this deadline by up to three months. The State Board shall develop a training curriculum for the certification program and standards for completing the program and maintaining certification, including required hours of annual training. No fees shall be charged to a general registrar for any required training as part of the certification program. The State Board shall review the certification program every four years, or more often as it deems appropriate.*

D. The State Board shall set the training standards for the officers of election and shall develop standardized training programs for the officers of election to be conducted by the local electoral boards and the general registrars. Training of the officers of election shall be conducted and certified as provided by § 24.2-115.2. The State Board shall provide standardized training materials for such training and shall also offer on the Department of Elections website a training course for officers of election. The content of the online training course shall be consistent with the standardized training programs developed pursuant to this section. The State Board shall review the standardized training materials and the content of the online training course every two years in the year immediately following a general election for federal office.

~~E.~~ E. The State 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 State 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 State 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 State Board pursuant to this subsection shall require a recorded majority vote of the Board.

~~D.~~ F. The State 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.~~ G. The Department of Elections 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. H. The State Board shall adopt a seal for its use and bylaws for its own proceedings.

G. I. A telephone call between two members of the Board preparing for a meeting shall not constitute a meeting under the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), provided that no discussion or deliberation takes place that would otherwise constitute a meeting.

§ 24.2-109. Appointment and removal of general registrar and officers of election; powers and duties in general.

A. Each electoral board shall appoint the general registrar for its city or county and officers of election for each precinct who shall serve in all elections, including town elections, as provided in this chapter. The secretary of the electoral board shall promptly notify each appointee of his appointment.

The electoral board by a recorded majority vote may remove from office, on notice, any general registrar or officer of election who fails to discharge the duties of his office according to law.

The electoral board shall remove from office, on notice, any general registrar who fails to receive or maintain certification as required by the State Board pursuant to subsection C of § 24.2-103.

B. The electoral board shall perform the duties assigned by this title including, but not limited to, the preparation of ballots, the administration of absentee ballot provisions, the conduct of the election, and the ascertaining of the results of the election.

§ 24.2-111. Compensation and expenses of general registrars.

The General Assembly shall establish a compensation plan in the general appropriation act for the general registrars. The governing body for the county or city of each general registrar shall pay compensation in accordance with the plan and be reimbursed annually as authorized in the act. The governing body shall be required to provide benefits to the general and assistant registrars and staff as provided to other employees of the locality, and shall be authorized to supplement the salary of the general registrar to the extent provided in the act.

Each locality shall pay the reasonable expenses of the general registrar, including reimbursement for mileage at the rate payable to members of the General Assembly. In case of a dispute, the State Board shall approve or disapprove the reimbursement. Reasonable expenses include, but are not limited to, costs for: (i) an adequately trained registrar's staff, including training in the use of computers and other technology to the extent provided to other local employees with similar job responsibilities, and reasonable costs for the general registrar to ~~attend the annual training offered~~ *receive and maintain certification as required by the State Board pursuant to subsection C of § 24.2-103*; (ii) adequate training for officers of election; (iii) conducting elections as required by this title; and (iv) voter education.

§ 24.2-114. Duties and powers of general registrar.

In addition to the other duties required by this title, the general registrar, and the assistant registrars acting under his supervision, shall:

1. Maintain the office of the general registrar and establish and maintain additional public places for voter registration in accordance with the provisions of § 24.2-412.

2. Participate in programs to educate the general public concerning registration and encourage registration by the general public. No registrar shall actively solicit, in a selective manner, any application for registration or for a ballot or offer anything of value for any such application.

3. Perform his duties within the county or city he was appointed to serve, except that a registrar may (i) go into a county or city in the Commonwealth contiguous to his county or city to register voters of his county or city when conducting registration jointly with the registrar of the contiguous county or city or (ii) notwithstanding any other provision of law, participate in multijurisdictional staffing for voter registration offices, approved by the State Board, that are located at facilities of the Department of Motor Vehicles.

4. Provide the appropriate forms for applications to register and to obtain the information necessary to complete the applications pursuant to the provisions of the Constitution of Virginia and general law.

5. Indicate on the registration records for each accepted mail voter registration application form returned by mail pursuant to Article 3.1 (§ 24.2-416.1 et seq.) of Chapter 4 that the registrant has registered by mail. The general registrar shall fulfill this duty in accordance with the instructions of the State Board so that those persons who registered by mail are identified on the registration records, lists of registered voters furnished pursuant to § 24.2-405, lists of persons who voted furnished pursuant to § 24.2-406, and pollbooks used for the conduct of elections.

6. Accept a registration application or request for transfer or change of address submitted by or for a resident of any other county or city in the Commonwealth. Registrars shall process registration applications and requests for transfer or change of address from residents of other counties and cities in accordance with written instructions from the State Board and shall forward the completed application or request to the registrar of the applicant's residence. Notwithstanding the provisions of § 24.2-416, the registrar of the applicant's residence shall recognize as timely any application or request for transfer or change of address submitted to any person authorized to receive voter registration applications pursuant to Chapter 4 (§ 24.2-400 et seq.), prior to or on the final day of registration. The registrar of the applicant's residence shall determine the qualification of the applicant, including whether the applicant

has ever been convicted of a felony, and if so, under what circumstances the applicant's right to vote has been restored, and promptly notify the applicant at the address shown on the application or request of the acceptance or denial of his registration or transfer. However, notification shall not be required when the registrar does not have an address for the applicant.

7. Preserve order at and in the vicinity of the place of registration. For this purpose, the registrar shall be vested with the powers of a conservator of the peace while engaged in the duties imposed by law. He may exclude from the place of registration persons whose presence disturbs the registration process. He may appoint special officers, not exceeding three in number, for a place of registration and may summon persons in the vicinity to assist whenever, in his judgment, it is necessary to preserve order. The general registrar and any assistant registrar shall be authorized to administer oaths for purposes of this title.

8. Maintain the official registration records for his county or city in the system approved by, and in accordance with the instructions of, the State Board; preserve the written applications of all persons who are registered; and preserve for a period of four years the written applications of all persons who are denied registration or whose registration is cancelled.

9. If a person is denied registration, notify such person in writing of the denial and the reason for denial within 14 days of the denial in accordance with § 24.2-422.

10. Verify the accuracy of the pollbooks provided for each election by the State Board, make the pollbooks available to the precincts, and according to the instructions of the State Board provide a copy of the data from the pollbooks to the State Board after each election for voting credit purposes.

11. Retain the pollbooks in his principal office for two years from the date of the election.

12. Maintain accurate and current registration records and comply with the requirements of this title for the transfer, inactivation, and cancellation of voter registrations.

13. Whenever election districts, precincts, or polling places are altered, provide for entry into the voter registration system of the proper district and precinct designations for each registered voter whose districts or precinct have changed and notify each affected voter of changes affecting his districts or polling place by mail.

14. Whenever any part of his county or city becomes part of another jurisdiction by annexation, merger, or other means, transfer to the appropriate general registrar the registration records of the affected registered voters. The general registrar for their new county or city shall notify them by mail of the transfer and their new election districts and polling places.

15. When he registers any person who was previously registered in another state, notify the appropriate authority in that state of the person's registration in Virginia by providing electronically, through the Department of Elections, the information contained in that person's registration application.

16. Whenever any person is believed to be registered or voting in more than one state or territory of the United States at the same time, inquire about, or provide information from the voter's registration and voting records to any appropriate voter registration or other authority of another state or territory who inquires about, that person's registration and voting history.

17. At the request of the county or city chairman of any political party nominating a candidate for the General Assembly, constitutional office, or local office by a method other than a primary, review any petition required by the party in its nomination process to determine whether those signing the petition are registered voters with active status.

18. Carry out such other duties as prescribed by the electoral board in his capacity as the director of elections for the locality in which he serves.

19. ~~Attend an annual training program provided by the State Board. A general registrar may designate one member of his staff to attend such training program if he is unable to attend because of a personal or family emergency. Receive and maintain certification through the certification program conducted by the State Board for general registrars pursuant to subsection C of § 24.2-103. Each general registrar shall be required to receive certification through the certification program within 12 months of his initial appointment or any subsequent reappointment, unless a waiver has been granted by the State Board pursuant to subsection C of § 24.2-103.~~

§ 24.2-115.2. Officers of election; required training.

A. Each officer of election shall receive training consistent with the standards set by the State Board pursuant to § 24.2-103. This training shall be conducted by the electoral boards and general registrars, using the standardized training programs and materials developed by the State Board for this purpose. However, any electoral board and general registrar may instead require that the officers of election complete the online training course provided by the State Board pursuant to subsection ~~B~~ D of § 24.2-103. Each officer of election shall receive such training, or complete the online training course, before the first election in which he will be serving as an officer of election. Such requirement shall apply to each term for which the officer of election is appointed.

B. Notwithstanding the provisions of subsection A, each officer of election shall receive additional training or instruction whenever a change to election procedures is made to this title or to regulations that alters the duties or conduct of the officers of election. Such changes shall include changes to voting systems, electronic pollbook equipment or programming, voter identification requirements, and

provisional ballot requirements. Such additional training shall be conducted or instruction given promptly after the law or regulation has taken effect, but not less than three days prior to the November general election.

C. Following any training conducted pursuant to this section, the electoral boards shall certify to the State Board that the officers of election in its jurisdiction have received the required training. Such certification shall include the dates of each completed training.

2. That any general registrar serving a term that began prior to the effective date of this act shall be required to complete the certification program and receive his certification no later than June 30, 2021.