

2020 SPECIAL SESSION I

SENATE SUBSTITUTE

20200947D

SENATE BILL NO. 5120
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Finance and Appropriations
on August 24, 2020)

(Patron Prior to Substitute—Senator Howell)

A BILL to amend and reenact Chapter 1289 of the Acts of Assembly of 2020, which appropriates the public revenues for two years ending, respectively, on June 30, 2021, and June 30, 2022, by adding an item numbered 86.10, relating to the general appropriation act; appropriation of funds for the Department of Elections.

Be it enacted by the General Assembly of Virginia:

1. That Chapter 1289 of the Acts of Assembly of 2020 is amended and reenacted by adding an item numbered 86.10 as follows:

Department of Elections

Table with 3 columns: Item Number, Description, First Year - FY2021, Second Year - FY2022. Row 1: 86.10, Electoral Services (72300), \$2,000,000, \$2,000,000. Row 2: Electoral Administration, Uniformity, Legality, and Quality Assurance Services (72302), \$2,000,000, \$2,000,000. Row 3: Fund Sources: General, \$2,000,000.

Authority: Title 24.2, Chapter 1, Code of Virginia

A. 1. For the general election and special elections to be held November 3, 2020, upon receipt of an absentee ballot returned before October 31, 2020, each general registrar shall examine the ballot envelopes to verify completion of the required voter affirmation.

2. If the general registrar finds during the examination of a returned absentee ballot envelope that the required voter affirmation was not correctly or completely filled out or that a procedure required by § 24.2-707 of the Code of Virginia was not properly followed, and such error or failure shall render the ballot void by law, the general registrar shall, within three days of such finding, notify the voter of the error or failure. However, notwithstanding the provisions of §§ 24.2-706 and 24.2-707 of the Code of Virginia, the failure of an absentee voter marking and returning a mail absentee ballot for the November 3, 2020, general election, and any special election or ballot measure held on that date, to have a witness sign the statement on the back of the absentee ballot return envelope shall not be considered a material omission and shall not render his ballot void. Such notice shall be made by phone, email, or in writing and shall provide information to the voter as to how to correct the issue so his ballot may be counted. The voter shall be entitled to make such necessary corrections before noon on the third day after the election, and his ballot shall then be counted pursuant to the procedures set forth in § 24.2-709.1 of the Code of Virginia if he is found to be entitled to vote. Notwithstanding any other provision of law to the contrary, no absentee ballot needing correction shall be delivered to the officers of election at the appropriate precinct until the voter is provided the opportunity to make the necessary corrections pursuant to this subparagraph.

3. The general registrar may issue a new absentee ballot to the voter if necessary and shall preserve the first ballot with other spoiled ballots.

B. 1. Notwithstanding any other provision of law, for the general election and special elections to be held on November 3, 2020, mailed absentee ballots shall be returned (i) by mail to the office of the general registrar, (ii) by the voter in person to the general registrar, (iii) to a drop-off location, or (iv) by commercial delivery service.

2. Mailed absentee ballots shall provide instructions that include information on the locations of all drop-off locations available in the locality at the time such ballots are mailed by the general registrar.

3. The general registrar of each county or city shall establish at the office of the general registrar and each voter satellite office in operation for an election a drop-off location for the purpose of allowing voters to deposit completed absentee ballots for such election. On the day of the election, there shall also be a drop-off location at each polling place in operation for the election. The general registrar may establish additional drop-off locations within the county or city as he deems necessary. All drop-off locations shall be accessible; be on public property, unless located at a polling place; and otherwise comply with any criteria for drop-off locations set by the Department of Elections.

4. The Department of Elections shall set standards for the establishment and operation of drop-off locations, including necessary security requirements.

5. The general registrar of a county or city utilizing drop-off locations shall post notice of the locations of the drop-off locations in the locality in the office of the general registrar and on the official

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60 website for the county or city. Such notice shall remain in the office of the general registrar and on the
61 official website for the county or city for the duration of the period during which absentee ballots may
62 be returned.

63 6. Absentee ballots shall be collected from drop-off locations in accordance with the instructions
64 provided by the Department of Elections. Such instructions shall include chain of custody requirements
65 and recordkeeping requirements. Absentee ballots shall be collected at least daily, by two officers of
66 election representing the two major political parties, when practicable, or by two employees from the
67 office of the general registrar, unless the drop-off location is in the office of the general registrar, in
68 which case the general registrar or an assistant general registrar may collect the absentee ballots.

69 7. Any ballot returned to a drop-off location in any manner except as prescribed by law shall be
70 void. Absentee ballots shall be returned to a drop-off location before the closing of the polls. Any voter
71 who is in line to return the voter's absentee ballot at a drop-off location by 7:00 p.m. on the day of the
72 election shall be permitted to deposit the absentee ballot.

73 C. 1. The general registrar shall include with the absentee ballot prescribed in § 24.2-706 of the
74 Code of Virginia, an envelope, properly addressed and postage prepaid, for the return of the ballot to
75 the general registrar by mail for the general election and special elections held on November 3, 2020.

76 2. Included in this appropriation is up to \$2,000,000 the first year from the general fund to
77 reimburse localities for the cost of prepaid postage required in subparagraph C.1. of this Item. This
78 amount shall remain unallotted until the Department of Elections provides documentation of qualifying
79 amounts to be reimbursed to localities for prepaid postage of return absentee ballots and shall not be
80 used or otherwise obligated for any other purposes.

81 **2. That this act is effective on its passage as provided in § 1-214 of the Code of Virginia.**