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HOUSE BILL NO. 2153

Offered January 13, 2021

Prefiled January 12, 2021

A BILL to amend and reenact § 24.2-649 of the Code of Virginia, relating to assistance to certain voters; curbside voting; right to observe ballot deposited into ballot scanner machine or ballot container.

Patron—Adams, L.R.

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-649 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-649. Assistance for certain voters; penalties.

A. Any voter age 65 or older or physically disabled may request and then shall be handed a printed ballot by an officer of election outside the polling place but within 150 feet of the entrance to the polling place. The voter shall mark the printed ballot in the officer's presence but in a secret manner and, obscuring his vote, return the ballot to the officer. The officer shall immediately return to the polling place and shall deposit a paper ballot in the ballot container in accordance with § 24.2-646 or a machine-readable ballot in the ballot scanner machine in accordance with the instructions of the State Board. Upon request, the voter shall be entitled to enter the polling place in order to observe the deposit of his ballot into the ballot container or ballot scanner machine.

Any county or city that has acquired an electronic voting machine that is so constructed as to be easily portable may use the voting machine in lieu of a printed ballot for the voter requiring assistance pursuant to this subsection. However, the electronic voting machine may be used in lieu of a printed ballot only so long as: (i) the voting machine remains in the plain view of two officers of election representing two political parties, or in a primary election, two officers of election representing the party conducting the primary, provided that if the use of two officers for this purpose would result in too few officers remaining in the polling place to meet legal requirements, the voting machine shall remain in plain view of one officer who shall be either the chief officer or the assistant chief officer and (ii) the voter casts his ballot in a secret manner unless the voter requests assistance pursuant to this section. After the voter has completed voting his ballot, the officer or officers shall immediately return the voting machine to its assigned location inside the polling place. The machine number, the time that the machine was removed and the time that it was returned, the number on the machine's public counter before the machine was removed and the number on the same counter when it was returned, and the name or names of the officer or officers who accompanied the machine shall be recorded on the statement of results.

B. Any qualified voter who requires assistance to vote by reason of physical disability or inability to read or write may, if he so requests, be assisted in voting. If he is blind, he may designate an officer of election or any other person to assist him. If he is unable to read and write or disabled for any cause other than blindness, he may designate an officer of election or some other person to assist him other than the voter's employer or agent of that employer, or officer or agent of the voter's union.

The officer of election or other person so designated shall not enter the booth with the voter unless (i) the voter signs a request stating that he requires assistance by reason of physical disability or inability to read or write and (ii) the officer of election or other person signs a statement that he is not the voter's employer or an agent of that employer, or an officer or agent of the voter's union, and that he will act in accordance with the requirements of this section. The request and statement shall be on a single form furnished by the State Board. If the voter is unable to sign the request, his own mark acknowledged by him before an officer of election shall be sufficient signature, provided no mark shall be required of a voter who is blind. An officer of election shall advise the voter and person assisting the voter of the requirements of this section and record the name of the voter and the name and address of the person assisting him.

The officer of election or other person so designated shall assist the qualified voter in the preparation of his ballot in accordance with his instructions and without soliciting his vote or in any manner attempting to influence his vote and shall not in any manner divulge or indicate, by signs or otherwise, how the voter voted on any office or question. If a printed ballot is used, the officer or other person so designated shall deposit the ballot in the ballot container in accordance with § 24.2-646 or in the ballot scanner machine in accordance with the instructions of the State Board.

C. If the voter requires assistance in a language other than English and has not designated a person

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59 to assist him, an officer of election, before he assists as interpreter, shall inquire of the representatives
60 authorized to be present pursuant to § 24.2-604.4 whether they have a volunteer available who can
61 interpret for the voter. One representative interpreter for each party or candidate, insofar as available,
62 shall be permitted to observe the officer of election communicate with the voter. The voter may
63 designate one of the volunteer party or candidate interpreters to provide assistance. A person so
64 designated by the voter shall meet all the requirements of this section for a person providing assistance.

65 D. A person who willfully violates subsection B or C is guilty of a Class 1 misdemeanor. In
66 addition, the provisions of § 24.2-1016 and its felony penalties for false statements shall be applicable to
67 any request or statement signed pursuant to this section, and the provisions of §§ 24.2-704 and
68 24.2-1012 and the felony penalties for violations of the law related to providing assistance to absentee
69 voters shall be applicable in such cases.

70 E. In any precinct in which an electronic voting machine is available that provides an audio ballot,
71 the officers of election shall notify a voter requiring assistance pursuant to this section that such
72 machine is available for him to use to vote in privacy without assistance and the officers of election
73 shall instruct the voter on the use of the voting machine. Nothing in this section shall be construed to
74 require a voter to use the machine unassisted.