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SENATE BILL NO. 1153

Offered January 13, 2021

Prefiled January 7, 2021

A *BILL to amend and reenact § 24.2-712 of the Code of Virginia, relating to elections; absentee voting; ballots to be sorted and counted by precinct.*

Patrons—Suetterlein, DeSteph, Kiggans and Surovell

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-712 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-712. Central absentee voter precincts; counting ballots.

A. Notwithstanding any other provision of law, the governing body of each county or city may establish one or more central absentee voter precincts in the courthouse or other public buildings for the purpose of receiving, counting, and recording absentee ballots cast in the county or city. The decision to establish any absentee voter precinct shall be made by the governing body by ordinance; the ordinance shall state for which elections the precinct shall be used. The decision to abolish any absentee voter precinct shall be made by the governing body by ordinance. Immediate notification of either decision shall be sent to the Department of Elections and the electoral board.

B. Each central absentee voter precinct shall have at least three officers of election as provided for other precincts. The number of officers shall be determined by the electoral board and general registrar.

C. If any voter brings an unmarked ballot to the central absentee voter precinct on the day of the election, he shall be allowed to vote it. If any voter brings an unmarked ballot to the general registrar on or before the day of the election, he shall be allowed to vote it, and his ballot shall be delivered to the absentee voter precinct pursuant to § 24.2-710.

The officers at the absentee voter precinct shall determine any appeal by any other voter whose name appears on the absentee voter applicant list and who offers to vote in person. If the officers at the absentee voter precinct produce records showing the receipt of his application and the certificate or other evidence of mailing for the ballot, they shall deny his appeal. If the officers cannot produce such records, the voter shall be allowed to vote in person at the absentee voter precinct and have his vote counted with other absentee votes. If the voter's appeal is denied, the provisions of § 24.2-708 shall be applicable, and the officers shall advise the voter that he may vote on presentation of a statement signed by him that he has not received an absentee ballot and subject to felony penalties for making false statements pursuant to § 24.2-1016.

D. Absentee ballots may be processed as required by § 24.2-711 by the officers of election at the central absentee voter precinct prior to the closing of the polls; *however, such absentee ballots shall be sorted by the precinct to which the voter who cast the absentee ballot is assigned upon removal of the ballot from the ballot envelope.* In the case of machine-readable ballots, the ballot container may be opened and the absentee ballots may be inserted in the counting machines prior to the closing of the polls in accordance with procedures prescribed by the Department of Elections, including procedures to preserve ballot secrecy, but no ballot count totals by the machines shall be initiated prior to the closing of the polls.

In the case of absentee ballots that are counted by hand, the officers of election may begin tallying such ballots at any time after 3:00 p.m. on the day of the election in accordance with the procedures prescribed by the Department of Elections, including procedures to preserve ballot secrecy. No counts of such tallies shall be determined or transmitted outside of the central absentee voter precinct until after the closing of the polls. The use of cellular telephones or other communication devices shall be prohibited in the central absentee voter precinct during such tallying and until the closing of the polls. Any person present in the central absentee voter precinct shall sign a statement under oath that he will not transmit any counts prior to the closing of the polls. Any person who transmits any counts in violation of this section is guilty of a Class 1 misdemeanor.

As soon as the polls are closed in the county or city, the officers of election at the central absentee voter precinct shall proceed promptly to *separately* ascertain and record the total vote given by all absentee ballots *associated with each precinct* and report the results in the manner provided for counting and reporting ballots generally in Article 4 (§ 24.2-643 et seq.) of Chapter 6. *The counted absentee ballots associated with each precinct shall be sealed separately from the counted absentee ballots associated with any other precinct for delivery to the clerk of court.*

E. The electoral board or general registrar may provide that the officers of election for a central

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59 absentee voter precinct may be assigned to work all or a portion of the time that the precinct is open on
60 election day subject to the following conditions:

61 1. The chief officer and the assistant chief officer, appointed pursuant to § 24.2-115 to represent the
62 two political parties, are on duty at all times; and

63 2. No officer, political party representative, or other candidate representative shall leave the precinct
64 after any ballots have been counted until the polls are closed and the count for the precinct is completed
65 and reported.

66 F. The general registrar may provide that the central absentee voter precinct will open after 6:00 a.m.
67 on the day of the election provided that the office of the general registrar will be open for the receipt of
68 absentee ballots until the central absentee voter precinct is open and that the officers of election for the
69 central absentee voter precinct obtain the absentee ballots returned to the general registrar's office for the
70 purpose of counting the absentee ballots at the central absentee voter precinct and provided further that
71 the central absentee voter precinct is the same location as the office of the general registrar.