

VIRGINIA ACTS OF ASSEMBLY -- 1998 SESSION

CHAPTER 264

An Act to amend and reenact §§ 24.2-633, 24.2-634, and 24.2-639 of the Code of Virginia, relating to the preparation and sealing of voting and counting equipment for elections; duties of officers of election.

[H 1195]

Approved April 7, 1998

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-633, 24.2-634, and 24.2-639 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-633. Notice of preparation of equipment; sealing equipment.

Before preparing voting or counting equipment for any election, the electoral board shall mail written notice (i) to the chairman of the local committee of each political party or, (ii) in a primary election, to the chairman of the local committee of the political party holding the primary, or (iii) in a city or town council election in which no candidate is a party nominee and which is held when no other election having party nominees is being conducted, to the candidates.

The notice shall state the time and place where the equipment will be prepared and state that the political party or candidate receiving the notice may have one representative present while the equipment is prepared.

At the time stated in the notice, the representatives, if present, shall be afforded an opportunity to see that the equipment is in proper condition for use at the election. When a device has been so examined by the representatives, it shall be sealed with a numbered metal seal in their presence, *or, if the device cannot be sealed with a metal seal, it shall be locked with a key*. The representatives shall certify as to the numbers of the devices; if mechanical voting devices are used, that all counters are set at zero (000); the number registered on the protective counter; and the number on the seal. When no party or candidate representative is present, the custodian shall seal the device as prescribed in this section in the presence of a member of the electoral board or its representative.

§ 24.2-634. Locking and securing after preparation.

When voting or counting equipment has been properly prepared for an election, it shall be locked against voting and sealed, *or, if the device cannot be sealed with a metal seal, it shall be locked with a key*. The equipment keys shall be retained in the custody of the electoral board and delivered to the officers of election as provided in § 24.2-639. After the voting equipment has been delivered to the polling places, the electoral board shall provide ample protection against tampering with or damage to the equipment.

§ 24.2-639. Duties of officers of election.

The officers of election of each precinct at which voting or counting equipment is used shall meet at the polling place by 5:15 a.m. on the day of the election and arrange the equipment, furniture, and other materials for the conduct of the election. The officers of election shall verify that all required equipment, ballots, and other materials have been delivered to them for the election. The officers shall post at least two instruction cards for mechanical or direct electronic voting devices conspicuously within the polling place.

The keys to the equipment shall be delivered, prior to the opening of the polls, to the officer of election designated by the electoral board in a sealed envelope on which has been written or printed the number of each device, the number of the seal, *if any*, and the number registered on the protective counter, if one. The envelope containing the keys shall not be opened until all of the officers of election for the precinct are present at the polling place and have examined the envelope to see that it has not been opened. The equipment shall remain locked against voting until the polls are formally opened and shall not be operated except by voters in voting.

Before opening the polls, each officer shall examine the equipment and see that no vote has been cast and that the counters register zero. The officers shall conduct their examination in the presence of the following party and candidate representatives: (i) in a general election, a representative of each political party, or (ii) in a primary election, a representative of each party holding a primary, or (iii) in a city or town council election in which no candidate is a party nominee and which is held when no other election having party nominees is being conducted, a representative of each candidate, if such representatives are available. If any counter is found not to register zero, the officers shall make a written statement identifying the counter, together with the number registered on it, and shall sign and post the statement on the wall of the polling room, where it shall remain during the day of election. The officers shall enter a similar statement on the statement of results. In determining the results, they shall subtract such number from the final total registered on that counter.