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**HOUSE BILL NO. 2642**

Offered January 23, 2009

A *BILL to amend and reenact §§ 24.2-101, 24.2-416.3, 24.2-416.6, 24.2-418, and 24.2-418.1 of the Code of Virginia, and to amend the Code of Virginia by adding sections numbered 24.2-404.3, 24.2-405.1, 24.2-1002.02, and 24.2-1004.1, relating to elections and voter registration procedures and revisions; duties of the State Board of Elections with respect to registration procedures; payments for petition signatures or registrations; penalties.*

Patrons—Orrock, Jones and Lingamfelter

Referred to Committee on Privileges and Elections

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 24.2-101, 24.2-416.3, 24.2-416.6, 24.2-418, and 24.2-418.1 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding sections numbered 24.2-404.3, 24.2-405.1, 24.2-1002.02, and 24.2-1004.1 as follows:**

§ 24.2-101. Definitions.

As used in this title, unless the context requires a different meaning:

"Candidate" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. "Candidate" shall include a person who seeks the nomination of a political party or who, by reason of receiving the nomination of a political party for election to an office, is referred to as its nominee. For the purposes of Chapters 8 (§ 24.2-800 et seq.), 9.3 (§ 24.2-945 et seq.), and 9.5 (§ 24.2-955 et seq.), "candidate" shall include any write-in candidate. However, no write-in candidate who has received less than 15 percent of the votes cast for the office shall be eligible to initiate an election contest pursuant to Article 2 (§ 24.2-803 et seq.) of Chapter 8. For the purposes of Chapters 9.3 (§ 24.2-945 et seq.) and 9.5 (§ 24.2-955 et seq.), "candidate" shall include any person who raises or spends funds in order to seek or campaign for an office of the Commonwealth, excluding federal offices, or one of its governmental units in a party nomination process or general, primary, or special election; and such person shall be considered a candidate until a final report is filed pursuant to Article 3 (§ 24.2-947 et seq.) of Chapter 9.3.

"Central absentee voter precinct" means a precinct established by a county or city pursuant to § 24.2-712 for the processing of absentee ballots for the county or city or any combination of precincts within the county or city.

"Constitutional office" or "constitutional officer" means a county or city office or officer referred to in Article VII, Section 4 of the Constitution of Virginia: clerk of the circuit court, attorney for the Commonwealth, sheriff, commissioner of the revenue, and treasurer.

"Election" means a general, primary, or special election.

"Election district" means the territory designated by proper authority or by law which is represented by an official elected by the people, including the Commonwealth, a congressional district, a General Assembly district, or a district for the election of an official of a county, city, town, or other governmental unit.

"Electoral board" or "local electoral board" means a board appointed pursuant to § 24.2-106 to administer elections for a county or city. The electoral board of the county in which a town or the greater part of a town is located shall administer the town's elections.

"General election" means an election held in the Commonwealth on the Tuesday after the first Monday in November or on the first Tuesday in May for the purpose of filling offices regularly scheduled by law to be filled at those times.

"Officer of election" means a person appointed by an electoral board pursuant to § 24.2-115 to serve at a polling place for any election.

"Party" or "political party" means an organization of citizens of the Commonwealth which, at either of the two preceding statewide general elections, received at least 10 percent of the total vote cast for any statewide office filled in that election. The organization shall have a state central committee and an office of elected state chairman which have been continually in existence for the six months preceding the filing of a nominee for any office.

"Person with a disability" means a person with a disability as defined by the Virginians with Disabilities Act (§ 51.5-1 et seq.).

"Polling place" means the one place provided for each precinct at which the qualified voters who are residents of the precinct may vote.

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59 "Precinct" means the territory designated by the governing body of a county, city, or town to be  
60 served by one polling place.

61 "Primary" or "primary election" means an election held for the purpose of selecting a candidate to be  
62 the nominee of a political party for election to office.

63 "Qualified voter" means a person who is entitled to vote pursuant to the Constitution of Virginia and  
64 who is (i) 18 years of age on or before the day of the election or qualified pursuant to § 24.2-403 or  
65 subsection D of § 24.2-544, (ii) a resident of the Commonwealth and of the precinct in which he offers  
66 to vote, and (iii) registered to vote. No person who has been convicted of a felony shall be a qualified  
67 voter unless his civil rights have been restored by the Governor or other appropriate authority. No  
68 person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as  
69 provided by law.

70 "Qualified voter in a town" means a person who is a resident within the corporate boundaries of the  
71 town in which he offers to vote, duly registered in the county of his residence, and otherwise a qualified  
72 voter.

73 "Referendum" means any election held pursuant to law to submit a question to the voters for  
74 approval or rejection.

75 "Registered voter" means any person who is maintained on the Virginia voter registration system. All  
76 registered voters shall be maintained on the Virginia voter registration system with active status unless  
77 assigned to inactive status by a general registrar in accordance with Chapter 4 (§ 24.2-400 et seq.). For  
78 purposes of applying the precinct size requirements of § 24.2-307, calculating election machine  
79 requirements pursuant to Article 3 (§ 24.2-625 et seq.) of Chapter 6, mailing notices of local election  
80 district, precinct or polling place changes as required by subdivision 13 of § 24.2-114 and § 24.2-306,  
81 and determining the number of signatures required for candidate and voter petitions, "registered voter"  
82 shall include only persons maintained on the Virginia voter registration system with active status.

83 "Registration records" means all official records concerning the registration of qualified voters and  
84 shall include all records, lists, applications, and files, whether maintained in books, on cards, on  
85 automated data bases, or by any other legally permitted record-keeping method.

86 "Residence" or "resident," for all purposes of qualification to register and vote, means and requires  
87 both domicile and a place of abode. In determining domicile, consideration may be given to a person's  
88 expressed intent, conduct, and all attendant circumstances including, but not limited to, financial  
89 independence, business pursuits, employment, income sources, residence for income tax purposes,  
90 marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real  
91 property owned by the person, motor vehicle and other personal property registration, and other factors  
92 reasonably necessary to determine the qualification of a person to register or vote.

93 "Special election" means any election that is held pursuant to law to fill a vacancy in office or to  
94 hold a referendum.

95 "State Board" or "Board" means the State Board of Elections.

96 "Third-party voter registration organization" means any person, entity, or organization soliciting or  
97 collecting voter registration applications, except it does not include a person who solicits or collects  
98 voter registration applications (i) from any family or household member, as that term is defined in  
99 § 16.1-228, or (ii) pursuant to the provisions of Article 3 (§ 24.2-411 et seq.) of Chapter 4 of this title.

100 "Virginia voter registration system" or "voter registration system" means the automated central  
101 record-keeping system for all voters registered within the Commonwealth that is maintained as provided  
102 in Article 2 (§ 24.2-404 et seq.) of Chapter 4.

103 § 24.2-404.3. Duty of State Board; verification of registered voter lists; mailing to registered voters.

104 On or before October 1, 2009, the State Board shall take the following steps to verify and update the  
105 Virginia registered voter lists: (i) conduct a match of the Virginia registered voter lists with the list of  
106 deceased persons maintained by the Social Security Administration and (ii) mail a notice to all persons  
107 on the Virginia registered voter lists with provision for assigning any voter to inactive status pursuant to  
108 § 24.2-428.1 if the notice is returned by the Postal Service as undeliverable.

109 The provisions of this section shall be implemented to the extent that funds are appropriated to the  
110 State Board for that purpose.

111 § 24.2-405.1. Exchange of registered voter lists with other states.

112 Pursuant to its authority under subsection A of § 24.2-405, the State Board shall conduct a pilot  
113 program to exchange registered voter lists with the chief election officer of at least three other states by  
114 July 1, 2009. The states chosen shall include at least one state bordering Virginia, at least one state  
115 that utilizes social security numbers to maintain its registered voter lists, and either Florida or New  
116 York. The purpose of the pilot program will be to determine the number of duplicate registrations  
117 involving Virginia and the other participating states. The State Board shall report to a joint meeting of  
118 the House and Senate Committees on Privileges and Elections to be held in July 2009 on the pilot  
119 program exchanges, the number of duplicate registrations found to exist, and the procedures that the  
120 Board is following to eliminate duplicate registrations from the Virginia registered voter lists.

§ 24.2-416.3. Distribution of mail voter registration application forms.

The State Board of Elections shall make available to any individual or ~~group~~ *third-party voter registration organization* a reasonable number of mail voter registration application forms.

§ 24.2-416.6. Registration of third-party voter registration organizations.

A. *Prior to engaging in any voter registration activities, each third-party voter registration organization shall register with the State Board and shall name a registered agent. The third-party voter registration organization shall submit the name of the registered agent and the names of the individuals responsible for the day-to-day operations of the organization, including, if applicable, the names of the organization's board of directors, officers, or other individuals engaged in similar duties or functions. The State Board shall maintain a list of all third-party voter registration organizations that have registered with the State Board and shall post this list on its website.*

B. *Within 15 days after the close of each calendar quarter, each third-party voter registration organization shall submit to the State Board a report providing the date and location of any organized voter registration drives conducted by the organization in the prior calendar quarter.*

C. Whenever the State Board, local electoral board, or general registrar's office furnishes individuals or ~~groups~~ *third-party voter registration organizations* multiple copies of the voter registration application, it shall provide accompanying instructions that contain a copy and explanation of § 24.2-1002.01 and the penalty for destruction of, or failure to mail or deliver, voter registration applications that have been signed. Any like instructions furnished to the public by whatever means shall contain a copy and explanation of § 24.2-1002.01 and the penalty for destruction of, or failure to mail or deliver, voter registration applications.

§ 24.2-418. Application for registration.

A. Each applicant to register shall provide, subject to felony penalties for making false statements pursuant to § 24.2-1016, the information necessary to complete the application to register. Unless physically disabled, he shall sign the application. The application to register shall be only on a form or forms prescribed by the State Board.

The form of the application to register shall require the applicant to provide the following information: full name; gender; date of birth; social security number, if any; whether the applicant is presently a United States citizen, *accompanied by proof of citizenship*; address of residence in the precinct; place of last previous registration to vote; and whether the applicant has ever been adjudicated incapacitated or convicted of a felony, and if so, under what circumstances the applicant's right to vote has been restored. *For the purposes of this section, "proof of citizenship" shall be provided by any one of the following documents:*

1. *A legible photocopy of the applicant's birth certificate that verifies citizenship to the satisfaction of the general registrar;*

2. *A legible photocopy of pertinent pages of the applicant's United States passport identifying the applicant and the applicant's passport number or presentation to the general registrar of the applicant's United States passport;*

3. *A legible photocopy of the applicant's United States naturalization documents or the number of the certificate of naturalization. If only the number of the certificate of naturalization is provided, the applicant shall not be registered until the number of the certificate of naturalization is verified with the United States Citizenship and Immigration Services by the general registrar;*

4. *Other documents or methods of proof of citizenship that are established pursuant to the Immigration Reform and Control Act of 1986, P.L. 99-603, 100 Stat. 3359; or*

5. *The applicant's Bureau of Indian Affairs card number, tribal treaty card number, or tribal enrollment number.*

The form shall permit any active or retired law-enforcement officer, as defined in § 9.1-101 and in 5 U.S.C. § 8331(20) but excluding officers whose duties relate to detention as defined in paragraphs (A) through (D) of § 8331(20), to furnish, in addition to his residence street address, a post office box address located within the Commonwealth to be included in lieu of his street address on the lists of registered voters and persons who voted, which are furnished pursuant to §§ 24.2-405 and 24.2-406, or on voter registration records made available for public inspection pursuant to § 24.2-444.

The form shall permit any party granted a protective order issued by or under the authority of any court of competent jurisdiction, including but not limited to courts of the Commonwealth of Virginia, to furnish, in addition to his street address, a post office box address located within the Commonwealth to be included in lieu of his street address on the lists of registered voters and persons who voted, which are furnished pursuant to §§ 24.2-405 and 24.2-406, or on voter registration records made available for public inspection pursuant to § 24.2-444.

The form shall permit any party, who has furnished a signed written statement by the party that he is in fear for his personal safety from another person who has threatened or stalked him accompanied by evidence that he has filed a complaint with a magistrate or law-enforcement official against such other

person, to furnish, in addition to his street address, a post office box address located within the Commonwealth to be included in lieu of his street address on the lists of registered voters and persons who voted, that are furnished pursuant to §§ 24.2-405 and 24.2-406, or on voter registration records made available for public inspection pursuant to § 24.2-444.

*B. The general registrar shall reject any application for registration that is not accompanied by one of the proofs of citizenship enumerated in subsection A.*

*C. Notwithstanding subsection B, any person who is registered in Virginia on January 1, 2010, shall be deemed to have provided satisfactory proof of citizenship and shall not be required to submit proof of citizenship so long as the person remains registered in Virginia.*

*D. Proof of a person's voter registration in another state shall not constitute proof of citizenship for the purposes of this section.*

*E. After a person has submitted proof of citizenship, the general registrar shall indicate this information on the person's voter registration record. The general registrar shall retain documents submitted as proof of citizenship for two years and may then destroy such documents.*

§ 24.2-418.1. Receipt for voter registration applicants.

A. The state form for the application to register to vote shall contain a receipt that shall be given to the applicant upon his completion of the form. The receipt shall be completed by the person receiving the form from the applicant and shall include the following information: the name of the office, ~~group,~~ or person, or ~~third-party voter registration organization~~ receiving the registration application; the date that the office, ~~group,~~ or person, or ~~third-party voter registration organization~~ received the registration application from the applicant; and the phone number of the general registrar or the toll-free phone number of the State Board of Elections that the applicant may call to confirm his registration.

B. The requirement to complete the receipt as provided in subsection A shall not be applicable when a completed form is mailed directly to or completed in the office of a general registrar or the State Board of Elections.

§ 24.2-1002.02. Failure to mail or deliver voter registration application; fines.

A. Except as provided in subsection B, a third-party voter registration organization shall be fined \$50, or \$250 for a knowing and willful violation of this subsection, for each voter registration application collected by the organization, or any person, entity, or agency acting on its behalf, but not mailed or delivered to the voter registrar or other appropriate person authorized to receive the application within 15 days after the applicant's signature.

B. A third-party voter registration organization shall be fined \$100, or \$500 for a knowing and willful violation of this subsection, for each voter registration application collected by the organization, or any person, entity, or agency acting on its behalf, prior to the close of the registration records pursuant to § 24.2-416 but not mailed or delivered to the voter registrar or other appropriate person authorized to receive the application until after the close of the registration records.

C. A third-party voter registration organization shall be fined \$500, or \$1,000 for a knowing and willful violation of this subsection, for each voter registration application collected by the organization, or any person, entity, or agency acting on its behalf, but not mailed or delivered to the voter registrar or other appropriate person authorized to receive the application.

D. The total amount of fines that may be assessed against a third-party voter registration organization pursuant to this section shall not exceed \$1,000 in a calendar year. The State Board shall reduce the fines assessed against a third-party voter registration organization by 75 percent if the organization has complied with the provisions of subsection A of § 24.2-416.6. The State Board may waive the fines provided for in this section if the third-party voter registration organization demonstrates that the performance of its obligations under this section was rendered impossible by circumstances beyond its control.

E. Nothing in this section shall limit the application of other criminal or civil penalties as provided in the Code of Virginia.

§ 24.2-1004.1. Payment or receipt of compensation for circulating petitions or registering voters; penalty.

Any person who, upon a fee per signature basis or upon a basis related to the number of signatures obtained, pays or offers to pay compensation to another person, or receives or agrees to receive compensation from another person for (i) circulating any petition required by this title that is filed with or transmitted to the State Board or other appropriate public office, or (ii) assisting any individual in completing or submitting a voter registration application or absentee voter application is guilty of a Class 1 misdemeanor.

**2. That an emergency exists and the provisions of § 24.2-405.1 of the Code of Virginia as added by this act are in force from its passage. That the amendments to § 24.2-418 in this act shall become effective on January 1, 2010. That the remaining provisions of this act shall become effective on July 1, 2009.**