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## SENATE BILL NO. 886

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Privileges and Elections  
on January 25, 2011)

(Patrons Prior to Substitute—Senators Martin and Vogel [SB 1252])

A BILL to amend and reenact §§ 24.2-442, 24.2-443.3, 24.2-612, 24.2-643, 24.2-702.1, 24.2-703, and 24.2-706 of the Code of Virginia, relating to elections; absentee voting by members of uniformed services and overseas citizens; identification for certain first-time voters.

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

**1. That §§ 24.2-442, 24.2-443.3, 24.2-612, 24.2-643, 24.2-702.1, 24.2-703, and 24.2-706 of the Code of Virginia are amended and reenacted as follows:**

§ 24.2-442. When registration permitted; lapse of registration.

Registration under this article shall be permitted until the registration records are closed pursuant to § 24.2-416 and shall be valid for all elections for which the voter is eligible through the end of the federal election cycle in which the voter submits his application or for 365 days either the next November general election or federal general election, whichever is longer later. After such period, registration under this article shall no longer be valid. If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, no other ballots for subsequent elections shall be sent under that application. No ballot shall be sent to the applicant, and no voted ballot received from the applicant shall be valid, (i) for any election held after the voter has notified the registrar that the voter no longer wishes to be registered or (ii) after the registrar has received notification that the voter has registered to vote in another state.

§ 24.2-443.3. When registration permitted.

Registration under this article shall be permitted until the registration records are closed pursuant to § 24.2-416 and shall be valid for all elections for which the voter is eligible through the end of the federal election cycle in which the voter submits his application or for 365 days either the next November general election or federal general election, whichever is longer later. If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, no other ballots for subsequent elections shall be sent under that application. No ballot shall be sent to the applicant, and no voted ballot received from the applicant shall be valid, (i) for any election held after the voter has notified the registrar that the voter no longer wishes to be registered or (ii) after the registrar has received notification that the voter has registered to vote in another state.

§ 24.2-612. List of offices and candidates filed with State Board and checked for accuracy; when ballots printed; number required.

Immediately after the expiration of the time provided by law for a candidate for any office to qualify to have his name printed on the official ballot and prior to printing the ballots for an election, each electoral board shall forward to the State Board a list of the county, city, or town offices to be filled at the election and the names of all candidates who have filed for each office. In addition, each electoral board shall forward the name of any candidate who failed to qualify with the reason for his disqualification. The State Board shall promptly advise the electoral board of the accuracy of the list. The failure of any electoral board to send the list to the State Board for verification shall not invalidate any election.

Each electoral board shall have printed the number of ballots it determines will be sufficient to conduct the election.

Notwithstanding any other provisions of this title, the State Board may print or otherwise provide (i) one statewide paper ballot style for each paper ballot style in use for presidential and vice-presidential electors for use only by persons eligible to vote for those offices only under § 24.2-402 or clause (iii) or (v) of subsection B of § 24.2-416.1, (ii) one statewide paper ballot style for each paper ballot style in use for Governor, Lieutenant Governor or Attorney General only for use as the early absentee ballot specified in § 24.2-702, and (iii) single paper ballot styles for each ballot style in use for each congressional district for federal offices for use only by overseas voters eligible to vote in federal elections only pursuant to Article 7 (§ 24.2-440 et seq.) of Chapter 4 of this title. The State Board may apportion or authorize the printer or vendor to apportion the costs for these ballots among the localities based on the number of ballots ordered. Any printer employed by the State Board shall execute the statement required by § 24.2-616. The State Board shall designate a representative to be present at the printing of such ballots and deliver them to the appropriate electoral boards pursuant to § 24.2-617. Upon receipt of such paper ballots, the electoral board shall affix its seal. Thereafter, such ballots shall be handled and accounted for, and the votes counted as the State Board shall specifically direct.

The electoral board shall make printed ballots available for absentee voting not later than 45 days

prior to any election *or within three business days of the receipt of a properly completed absentee ballot application, whichever is later.* In the case of a special election, excluding for federal offices, if time is insufficient to meet the applicable deadline established herein, then the electoral board shall make printed ballots available as soon after the deadline as possible. For the purposes of this chapter, making printed ballots available includes mailing of such ballots or electronic transmission of such ballots pursuant to § 24.2-706 to a qualified absentee voter who is eligible for an absentee ballot under subdivision 2 of § 24.2-700. Not later than five days after absentee ballots are made available, each electoral board shall report to the State Board, in writing on a form approved by the State Board, whether it has complied with the applicable deadline.

Only the names of candidates for offices to be voted on in a particular election district shall be printed on the ballots for that election district.

The electoral boards shall send to the State Board a statement of the number of paper ballots ordered to be printed, proofs of each paper and voting equipment ballot for verification, and copies of each final ballot. If the State Board finds that, in its opinion, the number of ballots ordered to be printed by any local electoral board is not sufficient, it may direct the local board to order the printing of a reasonable number of additional ballots.

§ 24.2-643. Qualified voter permitted to vote; procedures at polling place; voter identification.

A. After the polls are open, each qualified voter at a precinct shall be permitted to vote. The officers of election shall ascertain that a person offering to vote is a qualified voter before admitting him to the voting booth and furnishing an official ballot to him.

B. An officer of election shall ask the voter for his full name and current residence address and repeat, in a voice audible to party and candidate representatives present, the full name and address stated by the voter. The officer shall ask the voter to present any one of the following forms of identification: his Commonwealth of Virginia voter registration card, his social security card, his valid Virginia driver's license, or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; or any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business.

If the voter's name is found on the pollbook, if he presents one of the forms of identification listed above, if he is qualified to vote in the election, and if no objection is made, an officer shall enter, opposite the voter's name on the pollbook, the first or next consecutive number from the voter count form provided by the State Board, or shall enter that the voter has voted if the pollbook is in electronic form; an officer shall provide the voter with the official ballot; and another officer shall admit him to the voting booth. Each voter whose name has been marked on the pollbooks as present to vote and entitled to a ballot shall remain in the presence of the officers of election in the polling place until he has voted. If a line of voters who have been marked on the pollbooks as present to vote forms to await entry to the voting booths, the line shall not be permitted to extend outside of the room containing the voting booths and shall remain under observation by the officers of election.

Except as provided in subsection E of this section, if a voter is entitled to vote except that he is unable to present one of the forms of identification listed above, he shall be allowed to vote after signing a statement, subject to felony penalties for false statements pursuant to § 24.2-1016, that he is the named registered voter who he claims to be. A voter who requires assistance in voting by reason of physical disability or inability to read or write, and who requests assistance pursuant to § 24.2-649, may be assisted in preparation of this statement in accordance with that section. The provisions of § 24.2-649 regarding voters who are unable to sign shall be followed when assisting a voter in completing this statement.

A voter may be accompanied into the voting booth by his child age 15 or younger.

C. If the current residence address stated by the voter is different from the address shown on the pollbook, the officer of election shall furnish the voter with a change of address form prescribed by the State Board. Upon its completion, the voter shall sign the prescribed form, subject to felony penalties for making false statements pursuant to § 24.2-1016, which the officer of election shall then place in an envelope provided for such forms for transmission to the general registrar who shall then transfer or cancel the registration of such voter pursuant to Chapter 4 (§ 24.2-400 et seq.) of this title.

D. At the time the voter is asked his full name and current residence address, the officer of election shall ask any voter for whom the pollbook indicates that an identification number other than a social security number is recorded on the Virginia voter registration system if he presently has a social security number. If the voter is able to provide his social security number, he shall be furnished with a voter registration form prescribed by the State Board to update his registration information. Upon its completion, the form shall be placed by the officer of election in an envelope provided for such forms for transmission to the general registrar. Any social security numbers so provided shall be entered by the general registrar in the voter's record on the voter registration system.

E. For federal elections held after January 1, 2004, this subsection shall apply in the case of any

voter who is required by subparagraph (b) of 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to show identification the first time the voter votes in a federal election in the state. At such election, such voter shall present: (i) a current and valid photo identification; or (ii) a copy of a current utility bill, bank statement, government check, paycheck or other *government* document that shows the name and address of the voter. Such individual who desires to vote in person but who does not show one of the forms of identification specified in this paragraph shall be offered a provisional ballot under the provisions of § 24.2-653. Neither the identification requirements of subsection B of this section, nor the identification requirements of subsection A of § 24.2-653, shall apply to such voter at that election. The State Board of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

§ 24.2-702.1. Write-in absentee ballots.

A. Notwithstanding any other provision of this title, a qualified absentee voter who is eligible for an absentee ballot under subdivision 2 of § 24.2-700 may use a write-in absentee ballot in any election. Such ballot shall be submitted and processed in the manner provided by the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff et seq.) and this article.

B. Notwithstanding any other provision of this title, a write-in absentee ballot submitted pursuant to subsection A shall be considered valid for purposes of simultaneously satisfying both an absentee ballot application and a completed absentee ballot, provided that the ballot is received no later than the deadline for the return of absentee ballots as provided in § 24.2-709 for the election in which the voter offers to vote, and the application on the envelope contains the following information: (i) the voter's signature; however, if the voter is unable to sign, the person assisting the voter will note this fact in the voter signature box; (ii) the voter's printed name; (iii) the county or city in which he is registered and offers to vote; (iv) the residence address at which he is registered to vote; (v) his current military or overseas address; and (vi) the signature of a witness who shall sign the same envelope. If the voter is not currently registered in Virginia and is eligible to be, such write-in absentee ballot shall also be considered valid for the purpose of serving as a voter registration application, *but such registration shall be valid only for the election for which the write-in ballot was sent.*

C. *This section shall not be construed to require that an absentee ballot be sent to the absentee voter on receipt of a write-in absentee ballot unless the voter has also submitted an absentee ballot application pursuant to § 24.2-701, 24.2-702, or 24.2-703.*

§ 24.2-703. Application for absentee ballots for multiple elections for uniformed and overseas voters.

Any person who is eligible for an absentee ballot under subdivision 2 of § 24.2-700, or for temporary registration under Articles 7 (§ 24.2-440 et seq.) or 7.1 (§ 24.2-443.1 et seq.) of Chapter 4, may file a single application to receive ballots for all elections in which he is eligible to vote absentee. The application shall be on a Federal Post Card Application. The application from any person who is eligible for an absentee ballot under subdivision 2 of § 24.2-700 that is received by the general registrar no later than 5:00 p.m. on the seventh day prior to the election shall be valid through the end of the federal election cycle in which the voter submits the application or for 365 days either the next November general election or federal general election, whichever is longer later. The application from any person applying for temporary registration under Articles 7 or 7.1 of Chapter 4 shall be accepted at any time until the registration records are closed pursuant to § 24.2-416 and shall be valid through the end of the federal election cycle in which the voter submits the application or for 365 days either the next November general election or federal general election, whichever is longer later. In the event that a second or subsequent Federal Post Card Application is received from a voter, any previous applications shall be superseded and the duration of the most recently received application shall apply.

The general registrar shall retain the application and process the applicant's request for an absentee ballot for each election in accordance with procedures established by the State Board. The applicant shall specify by party designation the primary ballots he is requesting.

If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, no other ballots for subsequent elections shall be sent. No ballot shall be sent to the applicant, and no voted ballot received from the applicant shall be valid, (i) for any election held after the voter has notified the registrar that the voter no longer wishes to be registered or (ii) after the registrar has received notification that the voter has registered to vote in another state.

§ 24.2-706. Duty of general registrar and electoral board on receipt of application; statement of voter.

On receipt of an application for an absentee ballot, the general registrar shall enroll the name and address of each registered applicant on an absentee voter applicant list that shall be maintained in the office of the general registrar with a file of the applications of the listed applicants. The list shall be available for inspection and copying and the applications shall be available for inspection only by any registered voter during regular office hours. Upon request and for a reasonable fee, the State Board of Elections shall provide an electronic copy of the absentee voter applicant list to any political party or candidate. Such list shall be used only for campaign and political purposes. Any list made available for

183 inspection and copying under this section shall contain the post office box address in lieu of the  
184 residence street address for any individual who has furnished at the time of registration or subsequently,  
185 in addition to his street address, a post office box address pursuant to subsection B of § 24.2-418.

186 No list or application containing an individual's social security number, or any part thereof, or the  
187 individual's day and month of birth, shall be made available for inspection or copying by anyone. The  
188 State Board of Elections shall prescribe procedures for local electoral boards and general registrars to  
189 make the information in the lists and applications available in a manner that does not reveal social  
190 security numbers or parts thereof, or an individual's day and month of birth.

191 The completion and timely delivery of an application for an absentee ballot shall be construed to be  
192 an offer by the applicant to vote in the election.

193 The general registrar shall note on each application received whether the applicant is or is not a  
194 registered voter and notify the secretary of the electoral board. In reviewing the application for an  
195 absentee ballot, the general registrar and electoral board shall not reject the application of any individual  
196 because of an error or omission on any record or paper relating to the application, if such error or  
197 omission is not material in determining whether such individual is qualified to vote absentee.

198 If the application has been properly completed and signed and the applicant is a registered voter of  
199 the precinct in which he offers to vote, the electoral board shall, at the time when the printed ballots for  
200 the election are available, send ~~within three business days of receiving a properly completed application~~  
201 ~~for an absentee ballot to the applicant by mail by the deadline set out in § 24.2-612,~~ obtaining a  
202 certificate of mailing, or deliver to him in person in the office of the secretary or registrar, the following  
203 items and nothing else:

204 1. An envelope containing the folded ballot, sealed and marked "Ballot within. Do not open except  
205 in presence of a witness."

206 2. An envelope, with printing only on the flap side, for resealing the marked ballot, on which  
207 envelope is printed the following:

208 "Statement of Voter."

209 "I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016,  
210 that my FULL NAME is ..... (last, first, middle); that I am now or have been at some time since  
211 last November's general election a legal resident of ..... (STATE YOUR LEGAL RESIDENCE IN  
212 VIRGINIA including the house number, street name or rural route address, city, zip code); that I  
213 received the enclosed ballot(s) upon application to the registrar of such county or city; that I opened the  
214 envelope marked 'ballot within' and marked the ballot(s) in the presence of the witness, without  
215 assistance or knowledge on the part of anyone as to the manner in which I marked it (or I am returning  
216 the form required to report how I was assisted); that I then sealed the ballot(s) in this envelope; and that  
217 I have not voted and will not vote in this election at any other time or place.

218 Signature of Voter .....

219 Date .....

220 Signature of witness ..... "

221 For elections held after January 1, 2004, instead of the envelope containing the above oath, an  
222 envelope containing the standard oath prescribed by the presidential designee under § 101(b)(7) of the  
223 Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff et seq.) shall be sent to  
224 voters who are qualified to vote absentee under that Act.

225 3. A properly addressed envelope for the return of the ballot to the electoral board by mail or by the  
226 applicant in person.

227 4. Printed instructions for completing the ballot and statement on the envelope and returning the  
228 ballot.

229 For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of  
230 42 U.S.C.S. § 15483 of the Help America Vote Act of 2002 to show identification the first time the  
231 voter votes in a federal election in the state, the printed instructions shall direct the voter to submit with  
232 his ballot: (i) a copy of a current and valid photo identification; or (ii) a copy of a current utility bill,  
233 bank statement, government check, paycheck or other *government* document that shows the name and  
234 address of the voter. Such individual who desires to vote by mail but who does not submit one of the  
235 forms of identification specified in this paragraph may cast such ballot by mail and the ballot shall be  
236 counted as a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall  
237 provide instructions to the electoral boards for the handling and counting of such provisional ballots  
238 pursuant to subsection B of § 24.2-653 and this section.

239 5. For any voter entitled to vote absentee under the Uniformed and Overseas Citizens Absentee  
240 Voting Act (42 U.S.C. § 1973ff et seq.), information provided by the State Board specific to the voting  
241 rights and responsibilities for such citizens, or information provided by the registrar specific to the status  
242 of the voter registration and absentee ballot application of such voter, may be included.

243 The envelopes and instructions shall be in the form prescribed by the State Board.

244 If the applicant makes his application to vote in person under § 24.2-701 at a time when the printed

ballots for the election are available, the general registrar or the secretary of the electoral board, on the determination of the qualifications of the applicant to vote, shall provide to the applicant the items set forth in subdivisions 1 through 4, and no item shall be removed by the applicant from the office of the general registrar or the secretary of the electoral board. On the request of the applicant, made no later than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote, the general registrar or the secretary may send the items set forth in subdivisions 1 through 4 to the applicant by mail, obtaining a certificate of mailing.

If the applicant states as the reason for his absence on election day any of the reasons set forth in subdivision 2 of § 24.2-700, the electoral board, at the time when the printed ballots for the election are available, shall mail ~~within three business days by the deadline set forth in § 24.2-612~~ or deliver in person to the applicant in the office of the secretary or general registrar the items as set forth in subdivisions 1 through 4 and, if necessary, an application for registration. A certificate of mailing shall not be required. The electoral board, at the time when the printed ballots for the election are available, shall send ~~within three business days by the deadline set forth in § 24.2-612~~ the blank ballot, the form for the envelope for returning the marked ballot, and instructions to the voter by electronic transmission if the voter so requests. The voted ballot shall be returned to the electoral board as otherwise required by this chapter.

When the statement prescribed in subdivision 2 has been properly completed and signed by the registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § 24.2-651.

The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur, or (iii) the campaign committee or the appropriate district political party chairman of such candidate. Any person who fails to discharge his duty as provided in this section through willful neglect of duty and with malicious intent shall be guilty of a Class 1 misdemeanor as provided in subsection A of § 24.2-1001.