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SENATE BILL NO. 57

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Privileges and Elections
on March 2, 2012)

(Patron Prior to Substitute—Senator Obenshain)

A BILL to amend and reenact §§ 24.2-706 and 24.2-709.1 of the Code of Virginia, relating to absentee voting in person.

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-706 and 24.2-709.1 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-706. Duty of general registrar and electoral board on receipt of application; statement of voter. Before a ballot is issued or mailed to any applicant, the general registrar shall check the statewide voter registration system or a list generated from that system to determine whether the applicant is registered to vote. If the applicant is not already registered to vote, he shall be mailed an official absentee ballot that shall be returned as provided in § 24.2-707. The returned ballot shall be held and processed no sooner than the fifth day after the date that the applicant registered to vote. This requirement shall not apply to any person qualified to vote absentee under subdivision 2 of § 24.2-700.

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

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

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

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

If the application has been properly completed and signed and the applicant is a registered voter of the precinct in which he offers to vote, the electoral board shall, at the time when the printed ballots for the election are available, send by the deadline set out in § 24.2-612, obtaining a certificate of mailing, or deliver to him in person in the office of the secretary or registrar, the following items and nothing else:

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

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

"Statement of Voter."

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

Signature of Voter

60 Date

61 Signature of witness"

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

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

68 4. Printed instructions for completing the ballot and statement on the envelope and returning the
69 ballot.

70 For federal elections held after January 1, 2004, for any voter who is required by subparagraph (b) of
71 42 U.S.C. § 15483 of the Help America Vote Act of 2002 to show identification the first time the voter
72 votes in a federal election in the state, the printed instructions shall direct the voter to submit with his
73 ballot (i) a copy of a current and valid photo identification or (ii) a copy of a current utility bill, bank
74 statement, government check, paycheck or other government document that shows the name and address
75 of the voter. Such individual who desires to vote by mail but who does not submit one of the forms of
76 identification specified in this paragraph may cast such ballot by mail and the ballot shall be counted as
77 a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide
78 instructions to the electoral boards for the handling and counting of such provisional ballots pursuant to
79 subsection B of § 24.2-653 and this section.

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

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

85 If the applicant makes his application to vote in person under § 24.2-701 at a time when the printed
86 ballots for the election are available, the general registrar or the secretary of the electoral board, on the
87 determination of the qualifications of the applicant to vote, shall provide to the applicant the items set
88 forth in subdivisions 1 through 4, and no item shall be removed by the applicant from the office of the
89 general registrar or the secretary of the electoral board. On the request of the applicant, made no later
90 than 5:00 p.m. on the seventh day prior to the election in which the applicant offers to vote, the general
91 registrar or the secretary may send the items set forth in subdivisions 1 through 4 to the applicant by
92 mail, obtaining a certificate of mailing.

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

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

104 The circuit courts shall have jurisdiction to issue an injunction to enforce the provisions of this
105 section upon the application of (i) any aggrieved voter, (ii) any candidate in an election district in whole
106 or in part in the court's jurisdiction where a violation of this section has occurred, or is likely to occur,
107 or (iii) the campaign committee or the appropriate district political party chairman of such candidate.
108 Any person who fails to discharge his duty as provided in this section through willful neglect of duty
109 and with malicious intent shall be guilty of a Class 1 misdemeanor as provided in subsection A of
110 § 24.2-1001.

111 § 24.2-709.1. Alternative procedures for counting absentee ballots.

112 ~~The~~ Except for absentee ballots required to be held under § 24.2-706, the electoral board may
113 authorize a general registrar at his option to take one or more of the following measures as needed to
114 expedite counting absentee ballots capable of being read with optical scan counting devices and returned
115 by mail before election day: (i) examine the ballot envelopes to verify completion of the required voter
116 affirmation; (ii) mark the pollbook, or the absentee voter applicant list if the pollbook is not available,
117 that the voter has voted; or (iii) open the sealed ballot envelopes and insert the ballots in the optical
118 scan counting equipment without initiating any ballot count totals. If the board authorizes optical
119 scanning as provided in clause (iii), at least two officers of election, one representing each political
120 party, shall be present during all hours when a general registrar uses the expedited procedures authorized
121 in this section. No person present while sealed ballot envelopes are opened and ballots are inserted into

122 counting equipment pursuant to clause (iii) shall disclose any information concerning the ballots.