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HOUSE BILL NO. 1337

FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Delegate Surovell
on February 4, 2013)

(Patrons Prior to Substitute—Delegates Cole and Bell, Robert B. [HBs 1787 and 1788])

A BILL to amend and reenact §§ 24.2-643, 24.2-651, 24.2-651.1, 24.2-653, and 24.2-701 of the Code of Virginia, relating to elections; polling place procedures; voter identification requirements.

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-643, 24.2-651, 24.2-651.1, 24.2-653, and 24.2-701 of the Code of Virginia are amended and reenacted as follows:

§ 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, his concealed handgun permit issued pursuant to § 18.2-308, or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; any valid student identification card issued by any institution of higher education located in the Commonwealth of Virginia; 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; or a copy of a current utility bill, bank statement, government check, or paycheck that shows the name and address of the voter.

Any voter who does not show one of the forms of identification specified in this subsection shall be offered a provisional ballot under the provisions of § 24.2-653. The State Board of Elections shall provide an ID-ONLY provisional ballot envelope that requires no follow-up action by the registrar or electoral board other than matching submitted identification documents from the voter for the electoral board to make a determination on whether to count the ballot.

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, 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.).

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

HOUSE SUBSTITUTE

HB1337H2

60 completion, the form shall be placed by the officer of election in an envelope provided for such forms
61 for transmission to the general registrar. Any social security numbers so provided shall be entered by the
62 general registrar in the voter's record on the voter registration system.

63 E. For federal elections held after January 1, 2004, this subsection shall apply in the case of any
64 voter who is required by subparagraph (b) of 42 U.S.C.S. § 15483 of the Help America Vote Act of
65 2002 to show identification the first time the voter votes in a federal election in the state. At such
66 election, such voter shall present (i) a current and valid photo identification or (ii) a copy of a current
67 utility bill, bank statement, government check, paycheck or other government document that shows the
68 name and address of the voter. Such individual who desires to vote in person but who does not show
69 one of the forms of identification specified in this subsection shall be offered a provisional ballot under
70 the provisions of § 24.2-653. Neither the identification requirements of subsection B, nor the
71 identification requirements of subsection A of § 24.2-653, shall apply to such voter at that election. The
72 State Board of Elections shall provide instructions to the electoral boards for the handling and counting
73 of such provisional ballots pursuant to subsection B of § 24.2-653 and this section.

74 **§ 24.2-651. Voter who is challenged; how challenge tried.**

75 Any qualified voter may, and the officers of election shall, challenge the vote of any person who is
76 listed on the pollbook but is known or suspected not to be a qualified voter.

77 The individual making the challenge shall complete and sign the following statement on a form
78 provided by the State Board:

79 "I do hereby state, subject to penalties for hindering, intimidating, or interfering with a qualified
80 voter pursuant to § 24.2-607, that I am a qualified voter of this Commonwealth or an officer of election
81 and that, to the best of my knowledge, information, and belief, _____ is not a qualified voter
82 of this precinct by reason of (please check each of the following reasons that is applicable):

83 1. The named person is not a citizen of the United States;

84 2. The named person is not now 18 years of age or, in the case of a primary election or a special
85 election held on a date other than a general election date, will not reach the age of 18 before the next
86 general election;

87 3. The named person is not a resident of the Commonwealth (or, if he has not been a resident of the
88 Commonwealth within the preceding 30 days, he is attempting to vote for an office or issue other than
89 electors of President and Vice President of the United States);

90 4. The named person is not a resident of this precinct (or he has not been a resident of this precinct
91 since the second preceding general federal election and has not continued to be a resident of this county
92 or city and this congressional district);

93 5. The named person is not a resident of the town in the case of a town election;

94 6. The named person has been disqualified from voting by the Constitution and laws of the
95 Commonwealth and this disqualification has not been removed by proper authority;

96 7. The named person is not the identical person he represents himself to be; or

97 8. The named person has voted in this election at this or another voting place (state when and where
98 the named person previously voted in this election: _____)."

99 Upon receipt of a signed challenge from a qualified voter or officer of election, an officer of election
100 shall explain to the challenged voter the qualifications of a voter and may examine him concerning his
101 qualifications. The officers of election are hereby authorized to administer the necessary oath or
102 affirmation to any witness brought before them to testify as to the qualifications of any person offering
103 to vote.

104 If the person being challenged insists that he is qualified and the challenge is not withdrawn, one of
105 the officers shall give him a form containing the following statement:

106 "I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016,
107 that I am a citizen of the United States, that I am at least 18 years of age (or will be on the ____ day of
108 _____, ____) that I am a resident of the Commonwealth of Virginia (or that I have been a
109 resident of this Commonwealth within the preceding 30 days and am voting only for electors of
110 President and Vice President of the United States), and that, according to the best of my knowledge,
111 information and belief, I am not disqualified from voting by the Constitution and laws of this
112 Commonwealth; that my full name is _____; that in such name I was duly registered as a
113 voter of this precinct; that I am now or at some time since the last November general election have been
114 an actual resident of this precinct or that I have been an actual resident of this precinct at some time
115 since the second preceding general federal election and have been and continue to be a resident of this
116 county or city and this congressional district; if I am voting in a town election today, that I am currently
117 a resident of that town; that I am the identical person I represent myself to be; and that I have not voted
118 in this election at this or any voting place and will not vote in this election at any other voting place."

119 If the person challenged refuses to sign the statement, he shall not be permitted to vote. If, however,
120 he signs the statement, he shall be permitted to vote on the voting system in use at the precinct, ~~unless~~
121 ~~he is required to cast a provisional ballot pursuant to § 24.2-651.1.~~

When the voter has signed the statement and is permitted to vote, the officers of election shall mark his name on the pollbook with the first or next consecutive number from the voter count form, or shall enter that the voter has voted if the pollbook is in electronic form, and shall indicate on the pollbook that he has signed the required statement in accordance with the instructions of the State Board.

If the envelope containing a voted absentee ballot has been properly signed by the voter, such ballot shall not be subject to challenge pursuant to this section.

§ 24.2-651.1. Voter who is shown as having already voted; provisional voting.

~~Any~~ The officers of election shall challenge the vote of any person who offers to vote, who is listed on the pollbook, and whose name is marked to indicate that he has already voted in person in the election shall cast a provisional ballot as provided in § 24.2-653. The State Board of Elections shall provide instructions to the electoral boards for the handling and counting of such provisional ballots.

When the person is challenged, an officer shall explain to him the basis for the challenge. If the person being challenged states that he has not voted and is qualified, an officer shall ask the voter to present 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 person presents the requested form of identification showing him to be the person listed on the pollbook, an officer of election shall give him the form set out in § 24.2-651 for the person to sign subject to felony penalties for making false statements pursuant to § 24.2-1016.

If the person challenged refuses to sign the statement, he shall not be permitted to vote. If, however, he signs the statement, he shall be permitted to vote on the voting system in use at the precinct.

When the voter has shown the requested identification, has signed the statement, and is permitted to vote, the officers of election shall mark his name on the pollbook with the first or next consecutive number from the voter count form, or shall enter that the voter has voted if the pollbook is in electronic form, and shall indicate on the pollbook that the person has signed the required statement in accordance with the instructions of the State Board of Elections.

§ 24.2-653. Voter whose name does not appear on pollbook or who is marked as having voted; handling of provisional ballots; ballots cast after normal close of polls due to court order extending polling hours.

A. When a person offers to vote pursuant to § 24.2-652 and the general registrar is not available or cannot state that the person is registered to vote, then such person shall be allowed to vote by paper ballot in the manner provided in this section. ~~This procedure shall also apply when required by § 24.2-643 or 24.2-651.1.~~

Such person shall be given a paper ballot and provide, subject to the penalties for making false statements pursuant to § 24.2-1016, on a green envelope supplied by the State Board, the identifying information required on the envelope, including his social security number, if any, full name including the maiden or any other prior legal name, date of birth, complete address, and signature in § 24.2-652. Such person shall be asked to present one of the forms of identification specified in subsection B of § 24.2-643. ~~The If he is unable to present one of these forms of identification, he shall sign 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, and the officers of election shall note on the green envelope whether or not the voter has presented that the required statement was signed in lieu of presenting one of the specified forms of identification.~~ The officers of election shall enter the appropriate information for the person in the precinct provisional ballots log in accordance with the instructions of the State Board but shall not enter a consecutive number for the voter on the pollbook nor otherwise mark his name as having voted. The officers of election shall provide an application for registration to the person offering to vote in the manner provided in this section.

The voter shall then, in the presence of an officer of election, but in a secret manner, mark the ballot as provided in § 24.2-644 and seal it in the green envelope. The envelope containing the ballot shall then be placed in the ballot container by an officer of election.

An officer of election, by a written notice given to the voter, shall (i) inform him that a determination of his right to vote shall be made by the electoral board; (ii) on the following day and advise the voter of the beginning time and place for the board's meeting and of the voter's right to be present at that meeting; and (iii) inform a voter voting provisionally when required by § 24.2-643 that he may submit a copy of one of the forms of identification specified in subsection B of § 24.2-643 to the electoral board by facsimile, electronic mail, in-person submission, or timely United States Postal Service or commercial mail delivery, to be received by the electoral board no later than noon on the third day after the election. At the meeting, the voter may request an extension of the determination of the provisional vote to the following day in order to provide information to prove that the voter is

183 entitled to vote in the precinct pursuant to § 24.2-401. The electoral board shall have the authority to
184 grant such extensions which it deems reasonable to determine the status of a provisional vote.

185 B. The provisional votes submitted pursuant to subsection A, in their unopened envelopes, shall be
186 sealed in a special envelope marked "Provisional Votes," inscribed with the number of envelopes
187 contained therein, and signed by the officers of election who counted them. All provisional votes
188 envelopes shall be delivered either (i) to the clerk of the circuit court who shall deliver all such
189 envelopes to the secretary of the electoral board or (ii) to the general registrar in localities in which the
190 electoral board has directed delivery of election materials to the general registrar pursuant to § 24.2-668.

191 The electoral board shall meet on the day following the election and determine whether each person
192 having submitted such a provisional vote was entitled to do so as a qualified voter in the precinct in
193 which he offered the provisional vote. If the board is unable to determine the validity of all the
194 provisional ballots offered in the election, or has granted any voter who has offered a provisional ballot
195 an extension to the following day as provided in subsection A, the meeting shall stand adjourned from
196 day to day, not to exceed seven calendar days from the date of the election, until the board has
197 determined the validity of all provisional ballots offered in the election.

198 One authorized representative of each political party or independent candidate in a general or special
199 election or one authorized representative of each candidate in a primary election shall be permitted to
200 remain in the room in which the determination is being made as an observer so long as he does not
201 participate in the proceedings and does not impede the orderly conduct of the determination. Each
202 authorized representative shall be a qualified voter of any jurisdiction of the Commonwealth. Each
203 representative, who is not himself a candidate or party chairman, shall present to the electoral board a
204 written statement designating him to be a representative of the party or candidate and signed by the
205 county or city chairman of his political party, the independent candidate, or the primary candidate, as
206 appropriate. Such statement, bearing the chairman's or candidate's original signature, may be photocopied
207 and such photocopy shall be as valid as if the copy had been signed.

208 Notwithstanding the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.),
209 attendance at meetings of the electoral board to determine the validity of provisional ballots shall be
210 permitted only for the authorized representatives provided for in this subsection, for the persons whose
211 provisional votes are being considered and their representative or legal counsel, and for appropriate staff
212 and legal counsel for the electoral board.

213 If the electoral board determines that such person was not entitled to vote as a qualified voter in the
214 precinct in which he offered the provisional vote, ~~or is unable to determine his right to vote, or has not~~
215 ~~been provided one of the forms of identification specified in subsection B of § 24.2-643,~~ the envelope
216 containing his ballot shall not be opened and his vote shall not be counted. The provisional vote shall be
217 counted if (a) such person is entitled to vote in the precinct pursuant to § 24.2-401 or (b) the State
218 Board or the voter presents proof that indicates the voter submitted an application for registration to the
219 Department of Motor Vehicles or other state-designated voter registration agency prior to the close of
220 registration pursuant to § 24.2-416 and the registrar determines that the person was qualified for
221 registration based upon the application for registration submitted by the person pursuant to subsection A.
222 The general registrar shall notify in writing pursuant to § 24.2-114 those persons found not properly
223 registered ~~or whose provisional vote was not counted.~~

224 If the electoral board determines that such person was entitled to vote, the name of the voter shall be
225 entered in a provisional votes pollbook and marked as having voted, the envelope shall be opened, and
226 the ballot placed in a ballot container without any inspection further than that provided for in
227 § 24.2-646.

228 On completion of its determination, the electoral board shall proceed to count such ballots and certify
229 the results of its count. Its certified results shall be added to those found pursuant to § 24.2-671. No
230 adjustment shall be made to the statement of results for the precinct in which the person offered to vote.

231 The certification of the results of the count together with all ballots and envelopes, whether open or
232 unopened, and other related material shall be delivered by the electoral board to the clerk of the circuit
233 court and retained by him as provided for in §§ 24.2-668 and 24.2-669.

234 C. Whenever the polling hours are extended by an order of a court of competent jurisdiction, any
235 ballots marked after the normal polling hours by persons who were not already in line at the time the
236 polls would have closed, notwithstanding the court order, shall be treated as provisional ballots under
237 this section. The officers of election shall mark the green envelope for each such provisional ballot to
238 indicate that it was cast after normal polling hours due to the court order, and when preparing the
239 materials to deliver to the registrar or electoral board, shall separate these provisional ballots from any
240 provisional ballots used for any other reason. The electoral board shall treat these provisional ballots as
241 provided in subsection B; however, the counted and uncounted provisional ballots marked after the
242 normal polling hours shall be kept separate from all other ballots and recorded in a separate provisional
243 ballots pollbook. The State Board of Elections shall provide instructions to the electoral boards for the
244 handling and counting of such provisional ballots pursuant to this section.

§ 24.2-701. Application for absentee ballot.

A. The State Board shall furnish each general registrar with a sufficient number of applications for official absentee ballots. The registrars shall furnish applications to persons requesting them.

The State Board shall implement a system that enables eligible persons to request and receive an absentee ballot application electronically through the Internet. Electronic absentee ballot applications shall be in a form approved by the State Board.

Except as provided in § 24.2-703, a separate application shall be completed for each election in which the applicant offers to vote. An application for an absentee ballot may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote.

An application that is completed in person at the same time that the applicant registers to vote shall be held and processed no sooner than the fifth day after the date that the applicant registered to vote; however, this requirement shall not be applicable to any person who is qualified to vote absentee under subdivision 2 of § 24.2-700.

Any application received before the ballots are printed shall be held and processed as soon as the printed ballots for the election are available.

For the purposes of this chapter, the general registrar's office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all general elections, except May general elections held in towns, and on the Saturday immediately preceding any primary election, May general election held in a town, or special election.

Unless the applicant is disabled, all applications for absentee ballots shall be signed by the applicant who shall state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that to the best of his knowledge and belief the facts contained in the application are true and correct and that he has not and will not vote in the election at any other place in Virginia or in any other state. If the applicant is unable to sign the application, a person assisting the applicant will note this fact on the applicant signature line and provide his signature, name, and address.

B. Applications for absentee ballots shall be completed in the following manner:

1. An application completed in person shall be made not less than three days prior to the election in which the applicant offers to vote and completed only in the office of the general registrar. The applicant shall sign the application in the presence of a registrar or a member of the electoral board. The applicant shall provide one of the forms of identification specified in subsection B of § 24.2-643. ~~Any applicant who does not show one of the forms of identification specified in subsection B of § 24.2-643 shall be offered a provisional ballot under the provisions of § 24.2-653. 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, or if he is unable to present one of the forms of identification specified in subsection B of § 24.2-643, he shall sign 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. An applicant who requires assistance in voting by reason of disability or inability to read or write may request assistance and be assisted in preparation of this statement in accordance with § 24.2-649. The provisions of § 24.2-649 regarding persons who are unable to sign shall be followed when assisting an applicant in completing this statement.~~

For federal elections held after January 1, 2004, this paragraph 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 that voter votes in a federal election in the state. After completing an application for an absentee ballot in person, 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 subdivision shall be offered a provisional ballot under the provisions of § 24.2-653. Neither the identification requirements of subsection B of § 24.2-643, 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.

2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile device if one is available to the office of the general registrar or the office of the State Board if a device is not available locally, or other means. The application shall be on a form furnished by the registrar or, if made under subdivision 2 of § 24.2-700, may be on a federal postcard application prescribed pursuant to 42 U.S.C. § 1973ff(b)(2). The federal postcard application may be accepted the later of (i) 12 months before an election or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote. The application shall be made to the appropriate registrar no later than 5:00 p.m. on the seventh day prior to the election in which the

306 applicant offers to vote.

307 C. Applications for absentee ballots shall contain the following information:

308 1. The applicant's printed name, the last four digits of the applicant's social security number, and the
309 reason the applicant will be absent or cannot vote at his polling place on the day of the election;

310 2. A statement that he is registered in the county or city in which he offers to vote and his residence
311 address in such county or city. Any person temporarily residing outside the United States shall provide
312 the last date of residency at his Virginia residence address, if that residence is no longer available to
313 him. Any person who makes application under subdivision 2 of § 24.2-700 who is not a registered voter
314 may file the applications to register and for a ballot simultaneously;

315 3. The complete address to which the ballot is to be sent directly to the applicant, unless the
316 application is made in person at a time when the printed ballots for the election are available and the
317 applicant chooses to vote in person at the time of completing his application. The address given shall be
318 (i) the address of the applicant on file in the registration records; (ii) the address at which he will be
319 located while absent from his county or city; or (iii) the address at which he will be located while
320 temporarily confined due to a disability or illness. No ballot shall be sent to, or in care of, any other
321 person; and

322 4. In the case of a person, or the spouse or dependent of a person, who is on active duty as a
323 member of the uniformed services as defined in § 24.2-452, the branch of service to which he or the
324 spouse belongs, and his or the spouse's rank, grade, or rate, and service identification number; or

325 5. In the case of a student, or the spouse of a student, who is attending a school or institution of
326 learning, the name and address of the school or institution of learning; or

327 6. In the case of any duly registered person with a disability, as defined in § 24.2-101, who is unable
328 to go in person to the polls on the day of the election because of his disability, illness, or pregnancy,
329 the nature of the disability, illness, or pregnancy; or

330 7. In the case of a person who is confined awaiting trial or for having been convicted of a
331 misdemeanor, the name and address of the institution of confinement; or

332 8. In the case of a person who will be absent on election day for business reasons, the name of his
333 employer or business; or

334 9. In the case of a person who will be absent on election day for personal business or vacation
335 reasons, the name of the county or city in Virginia or the state or country to which he is traveling; or

336 10. In the case of a person who is unable to go to the polls on the day of election because he is
337 primarily and personally responsible for the care of an ill or disabled family member who is confined at
338 home, the name of the family member and the nature of his illness or disability; or

339 11. In the case of a person who is unable to go to the polls on the day of election because of an
340 obligation occasioned by his religion, his religion and the nature of the obligation; or

341 12. In the case of a person who, in the regular and orderly course of his business, profession, or
342 occupation, will be at his place of work and commuting to and from his home to his place of work for
343 11 or more hours of the 13 hours that the polls are open pursuant to § 24.2-603, the name of his
344 business or employer, address of his place of work, and hours he will be at the workplace and
345 commuting on election day; or

346 13. In the case of a law-enforcement officer, as defined in § 18.2-51.1; firefighter, as defined in
347 § 65.2-102; volunteer firefighter, as defined in § 27-42; search and rescue personnel, as defined in
348 § 18.2-51.1; or emergency medical services personnel, as defined in § 32.1-111.1, that he is a first
349 responder; or

350 14. In the case of a person who has been designated by a political party, independent candidate, or
351 candidate in a primary election to be a representative of the party or candidate inside a polling place on
352 the day of the election pursuant to subsection C of § 24.2-604 and § 24.2-639, the fact that he is so
353 designated and the name of the party chairman or candidate who designated him.