

VIRGINIA ACTS OF ASSEMBLY -- 2016 SESSION

CHAPTER 18

An Act to amend and reenact §§ 24.2-101, 24.2-115, 24.2-115.1, 24.2-117, 24.2-216, 24.2-310, 24.2-406, 24.2-511, 24.2-527, 24.2-604, 24.2-604.1, 24.2-609, 24.2-610, 24.2-612, 24.2-614, 24.2-616 through 24.2-620, 24.2-627, 24.2-631 through 24.2-639, 24.2-641, 24.2-642, 24.2-647, 24.2-659, 24.2-668, 24.2-683, 24.2-684, and 24.2-712 of the Code of Virginia, relating to local electoral boards; reassigning certain duties related to elections administration; technical amendments to terminology.

[H 1145]

Approved February 24, 2016

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-101, 24.2-115, 24.2-115.1, 24.2-117, 24.2-216, 24.2-310, 24.2-406, 24.2-511, 24.2-527, 24.2-604, 24.2-604.1, 24.2-609, 24.2-610, 24.2-612, 24.2-614, 24.2-616 through 24.2-620, 24.2-627, 24.2-631 through 24.2-639, 24.2-641, 24.2-642, 24.2-647, 24.2-659, 24.2-668, 24.2-683, 24.2-684, and 24.2-712 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-101. Definitions.

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

"Ballot scanner machine" means the electronic counting machine in which a voter inserts a marked ballot to be scanned and the results tabulated.

"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 officer" or "constitutional officer" means a county or city officer 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.

"Department of Elections" or "Department" means the state agency headed by the Commissioner of Elections.

"Direct recording electronic machine" or "DRE" means the electronic voting machine on which a voter touches areas of a computer screen, or uses other control features, to mark a ballot and his vote is recorded electronically.

"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.

"Entrance of polling place" or "entrance to polling place" means an opening in the wall used for ingress to a structure.

"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.

"General registrar" means the person appointed by the electoral board of a county or city pursuant to § 24.2-110 to be responsible for all aspects of voter registration, in addition to other duties prescribed by this title. When performing duties related to the administration of elections, the general registrar is acting in his capacity as the director of elections for the locality in which he serves.

"Machine-readable ballot" means a tangible ballot that is marked by a voter or by a system or device operated by a voter and then fed into and scanned by a counting machine capable of reading ballots and tabulating results.

"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.

"Paper ballot" means a tangible ballot that is marked by a voter and then manually counted.

"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 structure that contains the one place provided for each precinct at which the qualified voters who are residents of the precinct may vote.

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

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

"Printed ballot" means a tangible ballot that is printed on paper and includes both machine-readable ballots and paper ballots.

"Qualified voter" means a person who is entitled to vote pursuant to the Constitution of Virginia and who is (i) 18 years of age on or before the day of the election or qualified pursuant to § 24.2-403 or subsection D of § 24.2-544, (ii) a resident of the Commonwealth and of the precinct in which he offers to vote, and (iii) a registered voter. No person who has been convicted of a felony shall be a qualified voter unless his civil rights have been restored by the Governor or other appropriate authority. No person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as provided by law. Whether a signature should be counted towards satisfying the signature requirement of any petition shall be determined based on the signer of the petition's qualification to vote. For purposes of determining if a signature on a petition shall be included in the count toward meeting the signature requirements of any petition, "qualified voter" shall include only persons maintained on the Virginia voter registration system (a) with active status and (b) with inactive status who are qualified to vote for the office for which the petition was circulated.

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

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

"Registered voter" means any person who is maintained on the Virginia voter registration system. All registered voters shall be maintained on the Virginia voter registration system with active status unless assigned to inactive status by a general registrar in accordance with Chapter 4 (§ 24.2-400 et seq.). For purposes of applying the precinct size requirements of § 24.2-307, calculating election machine requirements pursuant to Article 3 (§ 24.2-625 et seq.) of Chapter 6, mailing notices of local election district, precinct or polling place changes as required by subdivision 13 of § 24.2-114 and § 24.2-306, and determining the number of signatures required for candidate and voter petitions, "registered voter" shall include only persons maintained on the Virginia voter registration system with active status. For purposes of determining if a signature on a petition shall be included in the count toward meeting the signature requirements of any petition, "registered voter" shall include only persons maintained on the Virginia voter registration system (i) with active status and (ii) on inactive status who are qualified to vote for the office for which the petition was circulated.

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

"Residence" or "resident," for all purposes of qualification to register and vote, means and requires both domicile and a place of abode. To establish domicile, a person must live in a particular locality with the intention to remain. A place of abode is the physical place where a person dwells.

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

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

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

"Voting system" means the electronic voting and counting machines used at elections. This term includes direct recording electronic machines (DRE) and ballot scanner machines.

§ 24.2-115. Appointment, qualifications, and terms of officers of election.

Each electoral board at its regular meeting in the first week of February of the year in which the terms of officers of election are scheduled to expire shall appoint officers of election. Their terms of office shall begin on March 1 following their appointment and continue, at the discretion of the electoral board, for a term not to exceed three years or until their successors are appointed. *The general registrar shall prepare and submit to the electoral board a plan to ensure that adequate numbers of trained officers of election are available to serve in each election.*

Not less than three competent citizens shall be appointed for each precinct. However, a precinct having more than 4,000 registered voters shall have not less than five officers of election serving for a presidential election, and the electoral board shall appoint additional officers as needed to satisfy this requirement. Insofar as practicable, each officer shall be a qualified voter of the precinct he is appointed to serve, but in any case a qualified voter of the Commonwealth. In appointing the officers of election, representation shall be given to each of the two political parties having the highest and next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election. The representation of the two parties shall be equal at each precinct having an even number of officers and shall vary by no more than one at each precinct having an odd number of officers. If practicable, officers shall be appointed from lists of nominations filed by the political parties entitled to appointments. The party shall file its nominations with the secretary of the electoral board at least 10 days before February 1 each year. The electoral board may appoint additional citizens who do not represent any political party to serve as officers. If practicable, no more than one-third of the total number of officers appointed for each precinct may be citizens who do not represent any political party.

Officers of election shall serve for all elections held in their respective precincts during their terms of office unless a substitute is required to be appointed pursuant to § 24.2-117 or the electoral board decides that fewer officers are needed for a particular election, in which case party representation shall be maintained as provided above. For a primary election involving only one political party, persons representing the political party holding the primary shall serve as the officers of election if possible.

The electoral board shall ~~designate~~ *ensure that one officer is designated* as the chief officer of election and one officer *is designated* as the assistant for each precinct. The officer designated as the assistant for a precinct, whenever practicable, shall not represent the same political party as the chief officer for the precinct. Notwithstanding any other provision of this section, where representatives for one or both of the two political parties having the largest number of votes for Governor in the last preceding gubernatorial election are unavailable, ~~the electoral board may designate~~ *citizens who do not represent either of those two political parties may be designated* as the chief officer and the assistant chief officer ~~citizens who do not represent any political party~~. In such case, the electoral board ~~general registrar~~ shall provide notice to representatives of both parties at least 10 days prior to the election that ~~it~~ *he* intends to use nonaffiliated officers so that each party shall have the opportunity to provide additional nominations. The electoral board may also appoint at least one officer of election who reports to the precinct at least one hour prior to the closing of the precinct and whose primary responsibility is to assist with closing the precinct and reporting the results of the votes at the precinct.

The electoral board shall ~~instruct~~ *ensure that each chief officer and assistant is instructed* in his duties not less than three nor more than 30 days before each election. Each ~~electoral board may instruct~~ *each* officer of election *may be instructed* in his duties at an appropriate time or times before each November general election, and ~~shall conduct~~ training of the officers of election ~~consistent~~ *shall be conducted consistently* with the standards set by the State Board pursuant to subsection B of § 24.2-103. Each electoral board shall *ensure that the general registrar* certify to the State Board that such training *of all officers of election* has been conducted every four years.

Notwithstanding the provisions of § 24.2-117, if an officer of election is unable to serve at any election during his term of office, the electoral board may at any time appoint a substitute who shall hold office and serve for the unexpired term.

Additional officers shall be appointed in accordance with this section at any time that the electoral board determines that they are needed or as required by law.

If practicable, substitute officers or additional officers appointed after the electoral board's regular meeting in the first week of February shall be appointed from lists of nominations filed by the political parties entitled to appointments. The electoral board *or the general registrar* shall inform the political parties of ~~its~~ *the decision of the electoral board* to make such appointments and the party shall file its nominations with the secretary of the electoral board *or the general registrar* within five business days.

The secretary of the electoral board *or general registrar* shall prepare a list of the officers of election that shall be available for inspection and posted in the general registrar's office prior to March 1 each year. Whenever substitute or additional officers are appointed, the secretary *of the electoral board or the general registrar* shall promptly add the names of the appointees to the public list. Upon request and at a reasonable charge not to exceed the actual cost incurred, the secretary *of the electoral board or the general registrar* shall provide a copy of the list of the officers of election, including their party designation and precinct to which they are assigned, to any requesting political party or candidate.

§ 24.2-115.1. Officers of election; hours of service.

The electoral board *or general registrar* may provide that the officers of election for one or more precincts may be assigned to work all or a portion of the time that the precinct is open on election day or reassigned to another precinct for the remaining portion of election day, as needed. Any officer of election assisting with the closing of the precinct and reporting the results of the votes at the precinct shall be required to report to the precinct at least one hour prior to the closing of the precinct. However, the chief officer and the assistant chief officer, appointed pursuant to § 24.2-115 to represent the two political parties, shall be on duty at all times. The electoral board *or general registrar* may provide for the administration of the oath of office provided for in § 24.2-120 and the oath required in § 24.2-611 to be kept with the pollbook at times convenient for officers of election assigned to work only a portion of the time that the precinct is open on election day.

§ 24.2-117. Request for removal of officer of election.

A candidate may require the removal of an officer of election for the election in which he is a candidate by a request in writing, filed at least seven days before the election with the electoral board appointing the officer, on the grounds that the officer is the spouse, parent, grandparent, sibling, child, or grandchild of an opposing candidate. A member of the electoral board may also request the removal of an officer of election whom he knows to be the spouse, parent, grandparent, sibling, child, or grandchild of a candidate in the election by a request in writing, filed at least seven days before the election with the electoral board. ~~The~~ Upon receipt of a timely written request pursuant to this section, the electoral board ~~may appoint~~ shall ensure that a substitute ~~who shall hold office and is appointed to~~ serve for that election.

§ 24.2-216. Filling vacancies in the General Assembly.

When a vacancy occurs in the membership of the General Assembly during the recess of the General Assembly or when a member-elect to the next General Assembly dies, resigns, or becomes legally incapacitated to hold office prior to its meeting, the Governor shall issue a writ of election to fill the vacancy. If the vacancy occurs during the session of the General Assembly, the Speaker of the House of Delegates or the President pro tempore of the Senate, as the case may be, shall issue the writ unless the respective house by rule or resolution shall provide otherwise. Upon receipt of written notification by a member or member-elect of his resignation as of a stated date, the Governor, Speaker, or President Pro Tempore, as the case may be, may immediately issue the writ to call the election. The member's or member-elect's resignation shall not be revocable after the date stated by him for his resignation or after the forty-fifth day before the date set for the special election.

The writ shall be directed to the secretaries of the electoral boards *and the general registrars* of the respective counties and cities composing the district for which the election is to be held.

Notwithstanding any provision of law to the contrary, no election to fill a vacancy shall be ordered or held if the general or special election at which it is to be called is scheduled within 75 days of the end of the term of the office to be filled.

§ 24.2-310. Requirements for polling places.

A. The polling place for each precinct shall be located within the county or city and either within the precinct or within one mile of the precinct boundary. The polling place for a county precinct may be located within a city (i) if the city is wholly contained within the county election district served by the precinct or (ii) if the city is wholly contained within the county and the polling place is located on property owned by the county. The polling place for a town precinct may be located within one mile of the precinct and town boundary. For town elections held in November, the town shall use the polling places established by the county for its elections.

B. The governing body of each county, city, and town shall provide funds to enable the ~~electoral board~~ *general registrar* to provide adequate facilities at each polling place for the conduct of elections. Each polling place shall be located in a public building whenever practicable. If more than one polling place is located in the same building, each polling place shall be located in a separate room or separate and defined space.

C. Polling places shall be accessible to qualified voters as required by the provisions of the Virginians with Disabilities Act (§ 51.5-1 et seq.), the Voting Accessibility for the Elderly and Handicapped Act (52 U.S.C. § 20101 et seq.), and the Americans with Disabilities Act relating to public services (42 U.S.C. § 12131 et seq.). The State Board shall provide instructions to the local electoral boards and general registrars to assist the localities in complying with the requirements of the Acts.

D. If an emergency makes a polling place unusable or inaccessible, the electoral board *or the general registrar* shall provide an alternative polling place and give notice of the change in polling place, including to all candidates, or such candidate's campaign, appearing on the ballot to be voted at the alternative polling place, subject to the prior approval of the State Board. The ~~electoral board~~ *general registrar* shall provide notice to the voters appropriate to the circumstances of the emergency. For the purposes of this subsection, an "emergency" means a rare and unforeseen combination of circumstances, or the resulting state, that calls for immediate action.

E. It shall be permissible to distribute campaign materials on the election day on the property on which a polling place is located and outside of the building containing the room where the election is conducted except as specifically prohibited by law including, without limitation, the prohibitions of

§ 24.2-604 and the establishment of the "Prohibited Area" within 40 feet of any entrance to the polling place. However, and notwithstanding the provisions of clause (i) of subsection A of § 24.2-604, and upon the approval of the local electoral board, campaign materials may be distributed outside the polling place and inside the structure where the election is conducted, provided that the "Prohibited Area" (i) includes the area within the structure that is beyond 40 feet of any entrance to the polling place and the area within the structure that is within 40 feet of any entrance to the room where the election is conducted and (ii) is maintained and enforced as provided in § 24.2-604. The local electoral board may approve campaigning activities inside the building where the election is conducted when an entrance to the building is from an adjoining building, or if establishing the 40-foot prohibited area outside the polling place would hinder or delay a qualified voter from entering or leaving the building.

F. Any local government, local electoral board, or the State Board may make monetary grants to any non-governmental entity furnishing facilities under the provisions of § 24.2-307 or 24.2-308 for use as a polling place. Such grants shall be made for the sole purpose of meeting the accessibility requirements of this section. Nothing in this subsection shall be construed to obligate any local government, local electoral board, or the State Board to appropriate funds to any non-governmental entity.

§ 24.2-406. Lists of persons voting at elections.

A. The Department of Elections shall furnish, at a reasonable price, lists of persons who voted at any primary, special, or general election held in the four preceding years to (i) candidates for election or political party nomination to further their candidacy, (ii) political party committees or officials thereof for political purposes only, (iii) political action committees that have filed a current statement of organization with the Department of Elections pursuant to § 24.2-949.2 or with the Federal Elections Commission pursuant to federal law, for political purposes only, (iv) incumbent officeholders to report to their constituents, and (v) members of the public or a nonprofit organization seeking to promote voter participation and registration by means of a communication or mailing without intimidation or pressure exerted on the recipient, for that purpose only. Such lists shall be furnished to no one else and shall be used only for campaign and political purposes and for reporting to constituents. Unless such lists are not available due to a pending recount or election contest, the ~~electoral board~~ *general registrar* shall submit the list of persons who voted to the Department of Elections within 14 days after each election. The ~~electoral boards~~ *general registrars* of localities using nonelectronic pollbooks shall submit the list of persons who voted to the Department of Elections within seven days after the pollbooks are released from the possession of the clerk of court. The Department of Elections shall make available such lists no later than seven days after receiving them from the ~~electoral board~~ *general registrar*.

B. The Department of Elections shall furnish to the Chief Election Officer of another state, on request and at a reasonable price, lists of persons who voted at any primary, special, or general election held for the four preceding years. Such lists shall be used only for the purpose of maintenance of voter registration systems and shall be transmitted in accordance with security policies approved by the State Board of Elections.

C. In no event shall any list furnished under this section contain the social security number, or any part thereof, of any registered voter, except for a list furnished to the Chief Election Officer of another state permitted to use social security numbers, or any parts thereof, that provides for the use of such numbers on applications for voter registration in accordance with federal law, for maintenance of voter registration systems.

D. Any list furnished 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.

§ 24.2-511. Party chairman or official to certify candidates to State Board and secretary of electoral board; failure to certify.

A. The state, district, or other appropriate party chairman shall certify the name of any candidate who has been nominated by his party by a method other than a primary for any office to be elected by the qualified voters of (i) the Commonwealth at large, (ii) a congressional district or a General Assembly district, or (iii) political subdivisions jointly electing a shared constitutional officer, along with the date of the nomination of the candidate, to the State Board not later than five days after the last day for nominations to be made. The State Board shall notify the ~~secretaries of every electoral board~~ *general registrars* of the names of the candidates to appear on the ballot for such offices.

B. The party chairman of the district or political subdivision in which any other office is to be filled shall certify the name of any candidate for that office who has been nominated by his party by a method other than a primary to the State Board and to the ~~secretary or secretaries of the electoral boards~~ *general registrars* of the cities and counties in which the name of the candidate will appear on the ballot not later than five days after the last day for nominations to be made. Should the party chairman fail to make such certification, the State Board shall declare that the candidate is the nominee of the particular party and direct that his name be treated as if certified by the party chairman.

C. In the case of a nomination for any office to be filled by a special election, the party chairman shall certify the name of any candidate (i) by the deadline to nominate the candidate or (ii) not later than five days after the deadline if it is a special election held at the second November election after the

vacancy occurred.

D. No further notice of candidacy or petition shall be required of a candidate once the party chairman has certified his name to the State Board.

E. In no case shall the individual who is a candidate for an office be the person who certifies the name of the party candidate for that same office. In such case the party shall designate an alternate official to certify its candidate.

§ 24.2-527. Chairman or official to furnish State Board and local electoral boards with names of candidates and certify petition signature requirements met.

A. It shall be the duty of the chairman or chairmen of the several committees of the respective parties to furnish the name of any candidate for nomination for any office to be elected by the qualified voters of the Commonwealth at large or of a congressional district or of a General Assembly district to the State Board, and to furnish the name of any candidate for any other office to the State Board and to the ~~electoral boards~~ *general registrars* charged with the duty of preparing and printing the primary ballots. In furnishing the name of any such candidate, the chairman shall certify that a review of the filed candidate petitions found the required minimum number of signatures of qualified voters for that office to have been met. The chairman shall also certify the order and date and time of filing for purposes of printing the ballots as prescribed in § 24.2-528, provided that the State Board shall determine the order and date and time of filing for candidates for United States Senator, Governor, Lieutenant Governor, and Attorney General for such purposes. Each chairman shall comply with the provisions of this section not less than 70 days before the primary.

B. In no case shall the individual who is a candidate for an office be the person who certifies the names of candidates for a primary for that same office. In such case the party shall designate an alternate official to certify the candidates.

§ 24.2-604. Prohibited activities at polls; notice of prohibited area; electioneering; presence of representatives of parties or candidates; simulated elections; observers; news media; penalties.

A. During the times the polls are open and ballots are being counted, it shall be unlawful for any person (i) to loiter or congregate within 40 feet of any entrance of any polling place; (ii) within such distance to give, tender, or exhibit any ballot, ticket, or other campaign material to any person or to solicit or in any manner attempt to influence any person in casting his vote; or (iii) to hinder or delay a qualified voter in entering or leaving a polling place.

B. Prior to opening the polls, the officers of election shall post, in the area within 40 feet of any entrance to the polling place, sufficient notices which state "Prohibited Area" in two-inch type. The notices shall also state the provisions of this section in not less than 24-point type. The officers of election shall post the notices within the prohibited area to be visible to voters and the public.

C. The officers of election shall permit one authorized representative of each political party or independent candidate in a general or special election, or one authorized representative of each candidate in a primary election, to remain in the room in which the election is being conducted at all times. A representative may serve part of the day and be replaced by successive representatives. The officers of election shall have discretion to permit up to three authorized representatives of each political party or independent candidate in a general or special election, or up to three authorized representatives of each candidate in a primary election, to remain in the room in which the election is being conducted. The officers shall permit one such representative for each pollbook station. However, no more than one such representative for each pollbook station or three representatives of any political party or independent candidate, whichever number is larger, shall be permitted in the room at any one time. Each authorized representative shall be a qualified voter of any jurisdiction of the Commonwealth. Each representative shall present to the officers of election a written statement designating him to be a representative of the party or candidate and signed by the county or city chairman of his political party, the independent candidate, or the primary candidate, as appropriate. If the county or city chairman is unavailable to sign such a written designation, such a designation may be made by the state or district chairman of the political party. However, no written designation made by a state or district chairman shall take precedence over a written designation made by the county or city chairman. Such statement, bearing the chairman's or candidate's original signature, may be photocopied, and such photocopy shall be as valid as if the copy had been signed. No candidate whose name is printed on the ballot shall serve as a representative of a party or candidate for purposes of this section. Authorized representatives shall be allowed, whether in a regular polling place or central absentee voter precinct, to be close enough to the voter check-in table to be able to hear and see what is occurring; however, such observation shall not violate the secret vote provision of Article II, Section 3 of the Constitution of Virginia or otherwise interfere with the orderly process of the election. Any representative who complains to the chief officer of election that he is unable to hear or see the process may accept the chief officer's decision or, if dissatisfied, he may immediately appeal the decision to the local electoral board *or general registrar*. Authorized representatives shall be allowed, whether in a regular polling place or central absentee voter precinct, to use a handheld wireless communications device, but shall not be allowed to use such a device to capture a digital image inside the polling place or central absentee voter precinct. The officers of election may prohibit the use of cellular telephones or other handheld wireless communications

devices if such use will result in a violation of subsection A or D or § 24.2-607. Authorized representatives shall not be allowed in any case to provide assistance to any voter as permitted under § 24.2-649 or to wear any indication that they are authorized to assist voters either inside the polling place or within 40 feet of any entrance to the polling place.

D. It shall be unlawful for any authorized representative, voter, or any other person in the room to (i) hinder or delay a qualified voter; (ii) give, tender, or exhibit any ballot, ticket, or other campaign material to any person; (iii) solicit or in any manner attempt to influence any person in casting his vote; (iv) hinder or delay any officer of election; (v) be in a position to see the marked ballot of any other voter; or (vi) otherwise impede the orderly conduct of the election.

E. The officers of election may require any person who is found by a majority of the officers present to be in violation of this section to remain outside of the prohibited area. Any person violating subsection A or D shall be guilty of a Class 1 misdemeanor.

F. This section shall not be construed to prohibit a candidate from entering any polling place on the day of the election to vote, or to visit a polling place for no longer than 10 minutes per polling place per election day, provided that he complies with the restrictions stated in subsections A, D, and K.

G. This section shall not be construed to prohibit a minor from entering a polling place on the day of the election to vote in a simulated election at that polling place, provided that the local electoral board *or general registrar* has determined that such polling place can accommodate simulated election activities without interference or substantial delay in the orderly conduct of the official voting process. Persons supervising or working in a simulated election in which minors vote may remain within such polling place. The local electoral board *or general registrar* and the chief officer for the polling place shall exercise authority over, but shall have no responsibility for the administration of, simulated election related activities at the polling place.

H. ~~A~~ *The* local electoral board, ~~and~~ *or* its general registrar, may conduct a special election day program for high school students, ~~selected by the electoral board in cooperation with high school authorities,~~ in one or more polling places designated by the electoral board *or the general registrar*, other than a central absentee voter precinct. *Such students shall be selected by the electoral board or the general registrar in cooperation with high school authorities.* The program shall be designed to stimulate the students' interest in elections and registering to vote, provide assistance to the officers of election, and ensure the safe entry and exit of elderly and disabled voters from the polling place. Each student shall take and sign an oath as an election page, serve under the direct supervision of the chief officer of election of his assigned polling place, and observe strict impartiality at all times. Election pages may observe the electoral process and seek information from the chief officer of election, but shall not handle or touch ballots, voting machines, or any other official election materials, or enter any voting booth.

I. A local electoral board *or general registrar* may authorize in writing the presence of additional neutral observers as ~~it deems may be deemed~~ appropriate, except as otherwise prohibited or limited by this section. Such observers shall comply with the restrictions in subsections A and D and shall not be allowed in any case to provide assistance to any voter as permitted under § 24.2-649 or to wear any indication that they are authorized to assist voters either inside the polling place or within 40 feet of any entrance to the polling place.

J. The officers of election shall permit representatives of the news media to visit and film or photograph inside the polling place for a reasonable and limited period of time while the polls are open. However, the media (i) shall comply with the restrictions in subsections A and D; (ii) shall not film or photograph any person who specifically asks the media representative at that time that he not be filmed or photographed; (iii) shall not film or photograph the voter or the ballot in such a way that divulges how any individual voter is voting; and (iv) shall not film or photograph the voter list or any other voter record or material at the precinct in such a way that it divulges the name or other information concerning any individual voter. Any interviews with voters, candidates or other persons, live broadcasts, or taping of reporters' remarks, shall be conducted outside of the polling place and the prohibited area. The officers of election may require any person who is found by a majority of the officers present to be in violation of this subsection to leave the polling place and the prohibited area.

K. The provisions of subsections A and D shall not be construed to prohibit a person who approaches or enters the polling place for the purpose of voting from wearing a shirt, hat, or other apparel on which a candidate's name or a political slogan appears or from having a sticker or button attached to his apparel on which a candidate's name or a political slogan appears. This exemption shall not apply to candidates, representatives of candidates, or any other person who approaches or enters the polling place for any purpose other than voting.

§ 24.2-604.1. Signs for special entrances to polling places.

The electoral board *or the general registrar* shall provide and have posted outside each polling place appropriate signs to direct people with disabilities and elderly persons to any special entrance designed for their use.

§ 24.2-609. Voting booths.

Each electoral board *or general registrar* shall provide at each polling place in ~~its~~ *the* county or city

one or more voting booths. At least one booth shall be an enclosure which permits the voter to vote by printed ballot in secret and is equipped with a writing surface, operative writing implements, and adequate lighting. Enclosures for voting equipment shall provide for voting in secret and be adequately lighted. "Voting booth" includes enclosures for voting printed ballots and for voting equipment.

§ 24.2-610. Materials at polling places.

A. The State Board shall provide copies of this title to each *member of the electoral board boards and to each general registrar* for each precinct in ~~its~~ *the* county or city. The ~~electoral board general registrar~~ shall furnish a copy of this title to each precinct for the use of the officers of election on election day.

B. Pursuant to subdivision A 7 of § 24.2-404, the State Board shall transmit to the ~~general registrar~~ *general registrar* of each county and city pollbooks for each precinct in which the election is to be held. The data elements printed or otherwise provided for each voter on the pollbooks shall be uniform throughout the Commonwealth.

C. The electoral board, general registrar, and officers of election shall comply with the requirements of this title and the instructions of the State Board to ensure that the pollbooks, ballots, voting equipment keys, and other materials and supplies required to conduct the election are delivered to the polling place before 6:00 a.m. on the day of the election and delivered to the proper official following the election.

§ 24.2-612. List of offices and candidates filed with Department of Elections 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 general registrar~~ shall forward to the Department of Elections 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 general registrar~~ shall forward the name of any candidate who failed to qualify with the reason for his disqualification. On that same day, the ~~electoral board general registrar~~ shall also provide a copy of the notice to each disqualified candidate. The notice shall be sent by email or regular mail to the address on the candidate's certificate of candidate qualification, and such notice shall be deemed sufficient. The Department of Elections shall promptly advise the ~~electoral board general registrar~~ of the accuracy of the list. The failure of any ~~electoral board general registrar~~ to send the list to the Department of Elections for verification shall not invalidate any election.

Each ~~electoral board general registrar~~ shall have printed the number of ballots ~~it~~ *he* determines will be sufficient to conduct the election. *Such determination shall be subject to the approval by the electoral board.*

Notwithstanding any other provisions of this title, the Department of Elections may print or otherwise provide 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 only for federal elections under § 24.2-453. The Department of Elections 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 Department of Elections shall execute the statement required by § 24.2-616. The Department of Elections shall designate a representative to be present at the printing of such ballots and deliver them to the appropriate ~~electoral boards general registrars~~ pursuant to § 24.2-617. Upon receipt of such paper ballots, the electoral board *or the general registrar* shall affix ~~its~~ *the seal of the electoral board*. Thereafter, such ballots shall be handled and accounted for, and the votes counted as the Department of Elections shall specifically direct.

The ~~electoral board general registrar~~ 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 general registrar~~ 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 general registrar~~ shall report to the Department of Elections, in writing on a form approved by the Department of Elections, whether ~~it~~ *he* 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 general registrar~~ shall send to the Department of Elections a statement of the number of ballots ordered to be printed, proofs of each printed ballot for verification, and copies of each final ballot. If the Department of Elections finds that, in its opinion, the number of ballots ordered to be printed by any ~~local electoral board general registrar~~ is not sufficient, it may direct the ~~local board general registrar~~ to order the printing of a reasonable number of additional ballots.

§ 24.2-614. Preparation and form of presidential election ballots.

As soon as practicable after the seventy-fourth day before the presidential election, the State Board shall certify to the ~~secretary~~ *general registrar* of each county and city ~~electoral board~~ the form of official ballot for the presidential election which shall be uniform throughout the Commonwealth. Each ~~electoral board~~ *general registrar* shall have the official ballot printed at least ~~forty-five~~ 45 days preceding the election.

The ballot shall contain the name of each political party and the party group name, if any, specified by the persons naming electors by petition pursuant to § 24.2-543. Below the party name in parentheses, the ballot shall contain the words "Electors for _____, President and _____, Vice President" with the blanks filled in with the names of the candidates for President and Vice President for whom the candidates for electors are expected to vote in the Electoral College. A printed square shall precede the name of each political party or party designation.

Groups of petitioners qualifying for a party name under § 24.2-543 shall be treated as a class; the order of the groups shall be determined by lot by the State Board; and the groups shall immediately precede the independent class on the ballot. The names of the candidates within the independent class shall be listed alphabetically.

§ 24.2-616. Duties of printer; statement; penalty.

The printer contracting with or employed by the electoral board *or general registrar* to print the ballots shall sign a statement before the work is commenced agreeing, subject to felony penalties for making false statements pursuant to § 24.2-1016, that he will print the number of ballots requested by the electoral board *or the general registrar* in accordance with ~~its~~ *the instructions given by the electoral board or the general registrar*; that he will print, and permit to be printed, directly or indirectly, no more than that number; that he will at once destroy all imperfect and perfect impressions other than those required to be delivered to the ~~electoral board~~ *general registrar*; that as soon as such number of ballots is printed he will distribute the type, if any, used for such work; and that he will not communicate to anyone, in any manner, the size, style, or contents of such ballots.

A similar statement shall be required of any employee or other person engaged in the work.

§ 24.2-617. Representative of electoral board to be present at printing; custody of ballots; electoral board may disclose contents, style, and size.

The electoral board *or general registrar* shall designate one person to be continuously present in the room in which the ballots are printed from the start to the end of the work and ensure that the undertakings of the printer's statement are complied with strictly. For the discharge of this duty the person, other than a board member, shall receive at least ~~twenty dollars~~ \$20 per day.

As soon as the ballots are printed they shall be securely wrapped and sealed, and the designated person shall assure their delivery to the ~~electoral board~~ *general registrar*, allowing no one to examine them until delivery.

The designated person shall sign a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that he has faithfully performed his duties, that the printer has complied with the requirements of law, and that only the requested number of ballots have been printed and are being delivered to the ~~electoral board~~ *general registrar*.

This section shall not be construed to prohibit any electoral board *or general registrar* from publishing or otherwise disclosing the contents, style, and size of ballots, which information electoral boards *or general registrars* are authorized to publish or otherwise disclose.

§ 24.2-618. Delivery of ballots to electoral board; checking and recording number.

~~The~~ *A member of the electoral board or the general registrar, or an employee of the board or general registrar designated by the electoral board or the general registrar, shall designate one of its members or employees or the general or an assistant registrar to receive the ballots after they are printed. The member of the board or other such designated person and shall certify the number of ballots received. This certificate shall be filed with the minutes of the board other materials for the election.*

§ 24.2-619. Sealing ballots.

~~The~~ *A member of the electoral board or the general registrar, or some other person designated by the electoral board or the general registrar, shall designate one of its members or some other person to cause the seal of the board to be affixed in his presence to every ballot printed as provided in this chapter. The seal shall be on the side reverse from that on which the names of the candidates appear. The seal may be affixed on the ballot either mechanically or manually. The member of the board, general registrar, or other person designated shall sign a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that the seal of the electoral board was affixed to the ballots in his presence in the manner prescribed by law, setting forth the name of every person taking part in the affixing of the seal, and stating that he has faithfully performed his duties. His statement shall be filed with the minutes of the board. For his services in causing the seal to be affixed to the ballots, the person designated, other than a board member *or general registrar*, shall receive at least ~~twenty dollars~~ \$20 per day.*

Any person, ~~other than the secretary of the board~~, designated to attend to the stamping of *affix the seal to* the ballots, shall return the seal to the secretary as soon as the stamping of *affixing of the seal to*

the ballots is completed.

Every person taking part in affixing the seal to the ballots or in placing the ballots in packages shall give his statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that he has faithfully performed his duties and that he will not divulge to anyone the contents of the ballots or any part thereof. These statements shall be filed with ~~the secretary of the board and retained with the minutes of the board.~~

§ 24.2-620. Dividing ballots into packages for each precinct; delivery of absentee ballots.

The electoral board ~~or general registrar~~ shall cause to be made, in the presence of at least one member of the board, ~~or an employee of the board or the general or an assistant registrar designated by a designee of the board,~~ one or more packages of ballots for each precinct in the election district. Each package shall contain a number of ballots determined by the board ~~or general registrar~~. Each of these packages shall be securely sealed in the presence of a member of the board or such designated person so that the ballots shall be invisible, and so that the packages cannot be readily opened without detection. On each of the packages shall be endorsed the name of the precinct for which it is intended and the number of ballots therein contained. Thereafter the packages designated for each precinct shall be delivered to the ~~secretary of the board~~ *general registrar* and remain in his exclusive possession until delivered by him, or by ~~another~~ a board member, a *designee of the board* ~~employee, the general~~ or an assistant registrar ~~designated by the board,~~ to the officers of election of each precinct as provided in § 24.2-621.

~~The electoral board shall have~~ *There shall be* sufficient ballots for those offering to vote absentee delivered to the general registrar ~~and secretary of the electoral board~~ by the deadline stated in § 24.2-612. Any such ballots remaining unused at the close of the polls on election day shall be sent by the general registrar ~~and the secretary of the electoral board~~ to the clerk of the circuit court of the county or city.

§ 24.2-627. Electronic voting or counting machines; number required.

A. The governing body of any county or city that adopts for use at elections direct recording electronic machines shall provide for each precinct at least the following number of voting machines:

- In each precinct having not more than 750 registered voters, 1;
- In each precinct having more than 750 but not more than 1,500 registered voters, 2;
- In each precinct having more than 1,500 but not more than 2,250 registered voters, 3;
- In each precinct having more than 2,250 but not more than 3,000 registered voters, 4;
- In each precinct having more than 3,000 but not more than 3,750 registered voters, 5;
- In each precinct having more than 3,750 but not more than 4,500 registered voters, 6;
- In each precinct having more than 4,500 but not more than 5,000 registered voters, 7.

B. The governing body of any county or city that adopts for use at elections ballot scanner machines shall provide for each precinct at least one voting booth with a marking device for each 425 registered voters or portion thereof and shall provide for each precinct at least one scanner. However, each precinct having more than 4,000 registered voters shall be provided with not less than two scanners at a presidential election, unless the governing body, in consultation with the general registrar and the electoral board, determines that a second scanner is not necessary at any such precinct on the basis of voter turnout and the average wait time for voters in previous presidential elections.

C. The local electoral board of any county or city shall be authorized to conduct any May general election, primary election, or special election held on a date other than a November general election with the number of voting or counting machines ~~it determines is determined by the board and the general registrar to be~~ appropriate for each precinct, notwithstanding the provisions of subsections A and B.

D. For purposes of applying this section, ~~an electoral board~~ *a general registrar* may exclude persons voting absentee in ~~its his~~ calculations, and if ~~it he~~ does so, ~~the electoral board~~ shall send to the Department a statement of the number of voting systems to be used in each precinct. If the State Board finds that the number of voting systems is not sufficient, it may direct the ~~local board~~ *general registrar* to use more voting systems.

§ 24.2-631. Experimental use of voting systems and ballots prior to approval of the system.

The State Board is authorized to approve the experimental use of voting or counting systems and ballots for the purpose of casting and counting absentee ballots in one or more counties and cities designated by the Board (i) that have established central absentee voter election districts and (ii) whose electoral board ~~submits and general registrar submit~~ to the Board for approval a plan for the use of such system and ballots. The Board is also authorized to approve the experimental use of voting or counting systems and ballots in one or more precincts in any county or city whose electoral board ~~submits and general registrar submit~~ to the Board for approval a plan for such use. The use of such systems and ballots at an election shall be valid for all purposes.

§ 24.2-632. Voting equipment custodians.

A. For the purpose of programming and preparing voting and counting equipment, including the programming of any electronic activation devices or data storage media used to program or operate the equipment, and maintaining, testing, calibrating, and delivering it, the electoral board *and general*

registrar shall employ one or more persons, to be known as custodians of voting equipment. The custodians shall be fully competent, thoroughly instructed, and sworn to perform their duties honestly and faithfully, and for such purpose shall be appointed and instructed at least 30 days before each election. With the approval of the State Board, the electoral board *or general registrar* may contract with the voting equipment vendor or another contractor for the purpose of programming, preparing and maintaining the voting equipment. The voting equipment custodians shall instruct and supervise the vendor or contractor technicians and oversee the programming, testing, calibrating and delivering of the equipment. The vendor or contractor technicians shall be sworn to perform their duties honestly and faithfully and be informed of and subject to the misdemeanor and felony penalties provided in §§ 24.2-1009 and 24.2-1010.

The final testing of the equipment prior to each election shall be done in the presence of an electoral board member ~~or~~, a representative of the electoral board, *or the general registrar*. The electoral board *or general registrar* may authorize a representative to be present at the final testing only if it is impracticable for a board member *or general registrar* to attend, and such representative shall in no case be the custodian or a vendor or contractor technician who was responsible for programming the ballot software, electronic activation devices, or electronic data storage media.

B. Notwithstanding the provisions of subsection A, the local electoral board *or general registrar* may assign a board member or *an assistant registrar* to serve as a custodian without pay for such service. The board member or *assistant registrar* serving as custodian shall be fully competent, thoroughly instructed, and sworn to perform his duties honestly and faithfully, and for such purpose shall be appointed and instructed at least 30 days before each election. Whenever the presence of an electoral board member *or general registrar* and custodian is required by the provisions of this title, the same person shall not serve in both capacities.

§ 24.2-633. Notice of final testing of voting system; sealing equipment.

Before the final testing of voting or counting machines for any election, the ~~electoral board~~ *general registrar* 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 machine will be tested and state that the political party or candidate receiving the notice may have one representative present while the equipment is tested.

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 machine has been so examined by the representatives, it shall be sealed with a numbered seal in their presence, or if the machine cannot be sealed with a numbered seal, it shall be locked with a key. The representatives shall certify for each machine 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 machine as prescribed in this section in the presence of a member of the electoral board ~~or its representative~~, *the general registrar, or a designee of the electoral board or general registrar*.

§ 24.2-634. Locking and securing after preparation.

When voting equipment has been properly prepared for an election, it shall be locked against voting and sealed, or if a voting or counting machine cannot be sealed with a numbered seal, it shall be locked with a key. The equipment keys and any electronic activation devices shall be retained in the custody of the ~~electoral board~~ *general registrar* 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~~ *general registrar* shall provide ample protection against tampering with or damage to the equipment.

§ 24.2-635. Demonstration of equipment.

In each county, city, or town in which voting or counting equipment is to be used, the electoral board *or general registrar* may designate times and places for the exhibition of equipment containing sample ballots, showing the title of offices to be filled, and, so far as practicable, the names of the candidates to be voted for at the next election for the purpose of informing voters who request instruction on the use of the equipment. No equipment shall be used for such instruction after being prepared and sealed for use in any election. During exhibitions, the counting mechanism, if any, of the equipment may be concealed from view.

§ 24.2-636. Instruction as to use of equipment.

No fewer than three nor more than ~~thirty~~ 30 days before each election, the electoral board *or general registrar* shall instruct, or cause to be instructed, on the use of the equipment and his duties in connection therewith, each officer of election appointed to serve in the election who has not previously been so instructed. The board *or the general registrar* shall not permit any person to serve as an officer who is not fully trained to conduct an election properly with the equipment. This section shall not be construed to prevent the appointment of a person as an officer of election to fill a vacancy in an emergency.

§ 24.2-637. Furniture and equipment to be at polling places.

Before the time to open the polls, each electoral board shall ~~have~~ *ensure that the general registrar has* the voting and counting equipment and all necessary furniture and materials at the polling places, with counters on the voting or counting devices set at zero (000), and otherwise in good and proper order for use at the election.

The ~~board~~ *general registrar* shall have the custody of such equipment, furniture, and materials when not in use at an election and shall maintain the equipment in accurate working order and in proper repair.

§ 24.2-638. Voting equipment to be in plain view; officers and others not permitted to see actual voting; unlocking counter compartment of equipment, etc.

During the election, the exterior of the voting equipment and every part of the polling place shall be in plain view of the officers of election.

No voting or counting machines shall be removed from the plain view of the officers of election or from the polling place at any time during the election and through the determination of the vote as provided in § 24.2-657. However, an electronic voting machine that is so constructed as to be easily portable may be taken outside the polling place pursuant to subsection A of § 24.2-649 and to assist a voter age 65 or older or physically disabled so long as: (i) the voting machine remains in the plain view of two officers of election representing two political parties or, in a primary election, two officers of election representing the party conducting the primary, provided that if the use of two officers for this purpose would result in too few officers remaining in the polling place to meet legal requirements, the machine shall remain in plain view of one officer who shall be either the chief officer or the assistant chief officer; (ii) the voter casts his ballot in a secret manner unless the voter requests assistance pursuant to § 24.2-649; and (iii) there remain sufficient officers of election in the polling place to meet legal requirements. After the voter has completed voting his ballot, the officer or officers shall immediately return the voting machine to its assigned location inside the polling place. The machine number, the time that the machine was removed and the time that it was returned, the number on the machine's public counter before the machine was removed and the number on the same counter when it was returned, the names of the voters who used the machine while it was removed provided that secrecy of the ballot is maintained in accordance with guidance from the State Board, and the name or names of the officer or officers who accompanied the machine shall be recorded on the statement of results. If a polling place fails to record the information required in the previous sentence, or it is later proven that the information recorded was intentionally falsified, the local electoral board *or general registrar* shall dismiss at a minimum the chief officer or the assistant chief officer, or both, as appropriate, and shall dismiss any other officer of election who is shown to have caused the failure to record the required information intentionally or by gross negligence or to have intentionally falsified the information. The dismissed officers shall not be allowed thereafter to serve as an officer or other election official anywhere in the Commonwealth. In the case of an emergency that makes a polling place unusable or inaccessible, voting or counting machines may be removed to an alternative polling place pursuant to the provisions of subsection D of § 24.2-310.

The equipment shall be placed at least four feet from any table where an officer of election is working or seated. The officers of election shall not themselves be, or permit any other person to be, in any position or near any position that will permit them to observe how a voter votes or has voted.

One of the officers shall inspect the face of the voting machine after each voter has cast his vote and verify that the ballots on the face of the machine are in their proper places and that the machine has not been damaged. During an election, the door or other covering of the counter compartment of the voting or counting machine shall not be unlocked or open or the counters exposed except for good and sufficient reasons, a statement of which shall be made and signed by the officers of election and attached to the statement of results. No person shall be permitted in or about the polling place except the voting equipment custodian, vendor, or contractor technicians and other persons authorized by this title.

§ 24.2-639. Duties of officers of election.

The officers of election of each precinct at which voting or counting machines are 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 direct recording electronic machines conspicuously within the polling place.

The keys to the equipment and any electronic activation devices that are required for the operation of electronic voting equipment shall be delivered, prior to the opening of the polls, to the officer of election designated by the electoral board *or general registrar* in a sealed envelope on which has been written or printed the name of the precinct for which it is intended. The envelope containing the keys and any electronic activation devices 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: one authorized representative of each political party or independent candidate in a general or special election, or one authorized representative of each candidate in a primary election, if such representatives are available. Each authorized representative shall be a qualified voter of any jurisdiction of the Commonwealth. Each representative, who is not himself a candidate or party chairman, shall present to the officers of election a written statement designating him to be a representative of the party or candidate and signed by the county or city chairman of his political party, the independent candidate, or the primary candidate, as appropriate. If the county or city chairman is unavailable to sign such a written designation, such a designation may be made by the state or district chairman of the political party. However, no written designation made by a state or district chairman shall take precedence over a written designation made by the county or city chairman. Such statement, bearing the chairman's or candidate's original signature, may be photocopied and such photocopy shall be as valid as if the copy had been signed.

If any counter, other than a protective or private counter, on a ballot scanner or direct recording electronic machine is found not to register zero, the officers of election shall immediately notify the electoral board ~~which~~ *general registrar*, who shall, if possible, substitute a machine in good working order, that has been prepared and tested pursuant to § 24.2-634. No ballot scanner or direct recording electronic machine shall be used if any counter, other than a protective or private counter, is found not to register zero.

§ 24.2-641. Sample ballot.

The electoral board *or general registrar* shall provide for each precinct in which any voting or counting machines are used, two sample ballots, which shall be arranged as a diagram of the front of the voting or counting machine as it will appear with the official ballot for voting on election day. Such sample ballots shall be posted for public inspection at each polling place during the day of election.

§ 24.2-642. Inoperative equipment.

A. When any voting or counting machine becomes inoperative in whole or in part while the polls are open, the officers of election shall immediately notify the electoral board *or general registrar*. If possible, the electoral board *or general registrar* shall dispatch a qualified technician to the polling place to repair the inoperative machine. All repairs shall be made in the presence of two officers of election representing the two political parties or, in the case of a primary election for only one party, two officers representing that party. If the machine cannot be repaired on site, the ~~electoral board~~ *general registrar* shall, if possible, substitute a machine in good order for the inoperative machine and at the close of the polls the record of both machines shall be taken and the votes shown on their counters shall be added together in ascertaining the results of the election.

No voting or counting machines, including inoperative machines, shall be removed from the plain view of the officers of election or from the polling place at any time during the election and through the determination of the vote as provided in § 24.2-657 except as explicitly provided pursuant to the provisions of this title.

No voting or counting machine that has become inoperative and contains votes may be removed from the polling place while the polls are open and votes are being ascertained. If the officers of election are unable to ascertain the results from the inoperative machine after the polls close in order to add its results to the results from the other machines in that precinct, the officers of election shall lock and seal the machine without removing the memory card, cartridge, or data storage medium and deliver the machine to either the clerk of court or registrar's office as provided for in § 24.2-659. On the day following the election, the electoral board shall meet and ascertain the results from the inoperative machine in accordance with the procedures prescribed by the machine's manufacturer and add the results to the results for the precinct to which the machine was assigned.

Nothing in this subsection shall prohibit the removal of an inoperative machine from a precinct prior to the opening of the polls or the first vote being cast on that machine. Any machine so removed shall be placed in the custody of an authorized custodian, technician, *general registrar*, or electoral board representative. If the inoperative machine can be repaired, it shall be retested and resealed pursuant to § 24.2-634 and may be returned to the precinct by an authorized custodian, technician, *general registrar*, or electoral board representative. The officers of election shall then open the machine pursuant to § 24.2-639.

B. In any precinct that uses a ballot that can be read without the use of the ballot scanner machine, if the ballot scanner machine becomes inoperative and there is no other available scanner, the uncounted ballots shall be placed in a ballot container or compartment that is used exclusively for uncounted ballots. If an operative scanner is available in the polling place after the polls have closed, such uncounted ballots shall be removed from the container and fed into the scanner, one at a time, by an officer of election in the presence of all persons who may be lawfully present at that time but before the votes are determined pursuant to § 24.2-657. If such a scanner is not available, the ballots may be counted manually or as directed by the electoral board.

C. An officer of election may have copies of the official paper ballot reprinted or reproduced by photographic, electronic, or mechanical processes for use at the election if (i) the inoperative machine

cannot be repaired in time to continue using it at the election, (ii) a substitute machine is needed to conduct the election but is not available for use, (iii) the supply of official printed ballots that can be cast without use of the inoperative machine is not adequate, and (iv) the local electoral board approves the reprinting or reproducing of the official paper ballot. The voted ballot copies may be received by the officers of election and placed in the ballot container and counted with the votes registered on the voting or counting machines, and the result shall be declared the same as though no machine has been inoperative. The voted ballot copies shall be deemed official ballots for the purpose of § 24.2-665 and preserved and returned with the statement of results and with a certificate setting forth how and why the same were voted. The officer of election who had the ballot copies made shall provide a written statement of the number of copies made, signed by him and subject to felony penalties for making false statements pursuant to § 24.2-1016, to be preserved with the unused ballot copies.

§ 24.2-647. Voting systems; demonstration on election day.

The ~~electoral board~~ *general registrar* shall provide at each polling place on election day, for the voting system in use, a model of or materials displaying a portion of its ballot face. The model or materials shall be located on the table of one of the officers or in some other place accessible to the voters. An officer of election shall instruct any voter who requests instruction before voting on the proper manner of voting. The officer may direct the voter's attention to sample ballots so that the voter may become familiar with the location of questions and names of offices and candidates.

For ballot scanner machines, an officer of election, using a demonstration ballot and machine, shall show each voter who requests, immediately on entry to the polling place, the manner in which the ballot is to be voted.

If any voter, after entering the voting booth, asks for further instructions concerning the manner of voting, two of the officers from different political parties shall give such instructions to him, but no officer shall in any manner request or seek to persuade or induce any such voter to vote for or against any particular ticket, candidate, or question. After giving such instructions and before the voter votes, the officers shall leave the voting booth, and the voter shall cast his ballot in secret.

§ 24.2-659. Locking voting and counting machines after election and delivering keys to clerk; printed returns as evidence.

A. If the voting or counting machine is secured by the use of equipment keys, after the officers of election lock and seal each machine, the equipment keys shall be enclosed in an envelope that shall be sealed and have endorsed thereon a certificate of an officer of election stating the election precinct, the number of each machine, the number on the seal, and the number of the protective counter, if one, on the machine. The sealed envelope shall be delivered by one of the officers of the election to the clerk of the circuit court where the election was held. The custodians of the voting equipment shall enclose and seal in an envelope, properly endorsed, all other keys to all voting equipment in their jurisdictions and deliver the envelope to the clerk of the circuit court by noon on the day following the election. If the voting or counting machines are secured by the use of equipment keys or electronic activation devices that are not specific to a particular machine, after the officers of election lock and seal each machine, the equipment keys and electronic activation devices shall be enclosed in an envelope that shall be sealed and have endorsed thereon a certificate of an officer of election stating the election precinct. The sealed envelope shall be delivered by one of the officers of election to the clerk of the circuit court where the election was held.

If the voting or counting machine is secured by removal of the data storage device used in that election, the officers shall remove the data storage device and proceed to lock and seal each machine. The data storage device shall be enclosed in an envelope that shall be sealed and have endorsed thereon a certificate of an officer of election stating the election precinct, the number of each machine, the number on the seal, and the number of the protective counter, if one, on the machine. The sealed envelope shall be delivered by one of the officers of election to the clerk of the circuit court where the election was held. The equipment keys used at the polls shall be sealed in a different envelope and delivered to the clerk who shall release them to the ~~electoral board~~ *general registrar* upon request or at the expiration of the time specified by this section.

If the voting or counting machine provides for the creation of a separate master electronic back-up on a data storage device that combines the data for all of the voting or counting machines in a given precinct, that data storage device shall be enclosed in an envelope that shall be sealed and have endorsed thereon a certificate of an officer of election stating the name of the precinct. The sealed envelope shall be delivered by one of the officers of election to the clerk of the circuit court where the election was held. The data storage device for the individual machines may remain sealed in its individual machine until the expiration of the time specified by this section. The equipment keys and the electronic activation devices used at the polls shall be sealed together in a separate envelope and delivered to the clerk who shall release them to the ~~electoral board~~ *general registrar* upon request or at the expiration of the time specified by this section.

The voting and counting machines shall remain locked and sealed until the deadline to request a recount under Chapter 8 (§ 24.2-800 et seq.) has passed and, if any contest or recount is pending thereafter, until it has been concluded. The machines shall be opened and all data examined only (i) on

the order of a court of competent jurisdiction or (ii) on the request of an authorized representative of the State Board, or the electoral board *or general registrar* at the direction of the State Board, in order to ensure the accuracy of the returns. In the event that machines are examined under clause (ii) of this paragraph, each political party and each independent candidate on the ballot, or each primary candidate, shall be entitled to have a representative present during such examination. The representatives and observers lawfully present shall be prohibited from interfering with the officers of election in any way. The State Board ~~or~~, local electoral board, *or general registrar* shall provide such parties and candidates reasonable advance notice of the examination.

When recounts occur in precincts using direct recording electronic machines with printed return sheets, the printed return sheets delivered to the clerk may be used as the official evidence of the results.

When the required time has expired, the clerk of the circuit court shall return all voting equipment keys to the ~~electoral board~~ *general registrar*.

B. The local electoral board *or general registrar* may direct that the officers of election and custodians, in lieu of conveying the sealed equipment keys to the clerk of the circuit court as provided in subsection A, shall convey them to the principal office of the general registrar on the night of the election. The general registrar shall secure and retain the sealed equipment keys and any other electronic locking or activation devices in his office and shall convey them to the clerk of the court by noon of the day following the ascertainment of the results of the election by the electoral board.

§ 24.2-668. Pollbooks, statements of results, and ballots to be sealed and delivered to clerk or general registrar.

A. After ascertaining the results and before adjourning, the officers shall put the pollbooks, the duplicate statements of results, and any printed inspection and return sheets in the envelopes provided by the State Board. The officers shall seal the envelopes and direct them to the clerk of the circuit court for the county or city. The pollbooks, statements, and sheets thus sealed and directed, the sealed counted ballots envelope or container, and the unused, defaced, spoiled and set aside ballots properly accounted for, packaged and sealed, shall be conveyed by one of the officers to be determined by lot, if they cannot otherwise agree, to the clerk of court by noon on the day following the election.

The clerk shall retain custody of the pollbooks, paper ballots, and other elections materials until the time has expired for initiating a recount, contest, or other proceeding in which the pollbooks, paper ballots, and other elections materials may be needed as evidence and there is no proceeding pending. The clerk shall (i) secure all pollbooks, paper ballots and other election materials in sealed boxes; (ii) place all of the sealed boxes in a vault or room not open to the public or to anyone other than the clerk and his staff; (iii) cause such vault or room to be securely locked except when access is necessary for the clerk and his staff; and (iv) upon the initiation of a recount, certify that these security measures have been taken in whatever form is deemed appropriate by the chief judge.

After that time the clerk shall deliver the pollbooks to the general registrar who shall return the pollbooks or transfer a copy of the electronic data to the State Board as directed by § 24.2-114 for voting credit purposes. After the pollbooks are returned by the State Board, the general registrar shall retain the pollbooks in his principal office for two years from the date of the election. The clerk shall retain the statement of results and any printed inspection and return sheets for two years and may then destroy them.

B. The local electoral board *or general registrar* may direct that the officers of election, in lieu of conveying the materials to the clerk of the circuit court as provided in subsection A ~~of this section~~, shall convey the materials to the principal office of the general registrar on the night of the election or the morning following the election as the board directs. The general registrar shall secure and retain the materials in his office and shall convey to the clerk of the court, by noon of the day following the ascertainment of the results of the election by the electoral board, all of the election materials. The general registrar shall retain for public inspection one copy of the statement of results.

C. If an electronic pollbook is used, the data disc or cartridge containing the electronic records of the election, or, alternately, a printed copy of the pollbook records of those who voted, shall be transmitted, sealed and retained as required by this section, and otherwise treated as the pollbook for that election for all purposes subsequent to the election. Nothing in this title shall be construed to require that the equipment or software used to produce the electronic pollbook be sealed or retained along with the pollbook, provided that the records for the election have been transferred or printed according to the instructions of the State Board.

§ 24.2-683. Writ for special election to fill a vacancy.

Whenever the Governor, Speaker of the House, President pro tempore of the Senate, or either house of the General Assembly orders a special election, he, or the person designated to act for the house, shall issue a writ of election designating the office to be filled at the election and the time to hold the election. He shall transmit the writ to the secretary of the electoral board *and the general registrar* of each county or city in which the election is to be held. Each ~~secretary~~ *general registrar* shall post a copy of the writ on the official website for the county or city or at not less than 10 public places or have notice of the election published once in a newspaper of general circulation in his jurisdiction at

least 10 days before the election. If the special election is held in more than one county or city, the ~~secretaries~~ *general registrars* may act jointly to have the notice published once before the election in the affected jurisdictions.

Whenever a special election is ordered to fill a vacancy otherwise than under the preceding paragraph, the officer ordering the election shall issue his writ of election at the time the vacancy occurs, designating the office to be filled at the election and the time and place to hold the election. He shall direct and transmit the writ to the secretary of the electoral board *and the general registrar* of each county or city in which the election is to be held. The ~~secretary~~ *general registrar*, or ~~secretaries~~ *general registrars* if the election will be held in more than one county or city, shall proceed to cause public notice to be given of the election in the same manner as is required in the preceding paragraph.

A copy of any order calling a special election to fill a vacancy shall be sent immediately to the State Board.

§ 24.2-684. How referendum elections called and held, and the results ascertained and certified.

Notwithstanding any other provision of any law or charter to the contrary, the provisions of this section shall govern all referenda.

No referendum shall be placed on the ballot unless specifically authorized by statute or by charter.

Whenever any question is to be submitted to the voters of any county, city, town, or other local subdivision, the referendum shall in every case be held pursuant to a court order as provided in this section. The court order calling a referendum shall state the question to appear on the ballot in plain English as that term is defined in § 24.2-687. The order shall be entered and the election held within a reasonable period of time subsequent to the receipt of the request for the referendum if the request is found to be in proper order. The court order shall set the date for the referendum in conformity with the requirements of § 24.2-682.

A copy of the court order calling a referendum shall be sent immediately to the State Board by the clerk of the court in which the order was issued.

The ballot shall be prepared by the appropriate ~~electoral board~~ *general registrar* and distributed to the appropriate precincts. On the day fixed for the referendum, the regular election officers shall open the polls and take the sense of the qualified voters of the county, city, town, or other local subdivision, as the case may be, on the question so submitted. The ballots for use at any such election shall be printed to state the question as follows:

"(Here state briefly the question submitted)

Yes

No"

The ballots shall be printed, marked, and counted and returns made and canvassed as in other elections. The results shall be certified by the secretary of the appropriate electoral board to the State Board, to the court ordering the election, and to such other authority as may be proper to accomplish the purpose of the election.

§ 24.2-712. Central absentee voter precincts; counting ballots.

A. Notwithstanding any other provision of law, the governing body of each county or city may establish one or more central absentee voter precincts in the courthouse or other public buildings for the purpose of receiving, counting, and recording absentee ballots cast in the county or city. The decision to establish any absentee voter precinct shall be made by the governing body by ordinance; the ordinance shall state for which elections the precinct shall be used. The decision to abolish any absentee voter precinct shall be made by the governing body by ordinance. Immediate notification of either decision shall be sent to the Department of Elections and the electoral board.

B. Each central absentee voter precinct shall have at least three officers of election as provided for other precincts. The number of officers shall be determined by the electoral board *and general registrar*.

C. If any voter brings an unmarked ballot to the central absentee voter precinct on the day of the election, he shall be allowed to vote it. If any voter brings an unmarked ballot to the general registrar on or before the day of the election, he shall be allowed to vote it, and his ballot shall be delivered to the absentee voter precinct pursuant to § 24.2-710.

The officers at the absentee voter precinct shall determine any appeal by any other voter whose name appears on the absentee voter applicant list and who offers to vote in person. If the officers at the absentee voter precinct produce records showing the receipt of his application and the certificate or other evidence of mailing for the ballot, they shall deny his appeal. If the officers cannot produce such records, the voter shall be allowed to vote in person at the absentee voter precinct and have his vote counted with other absentee votes. If the voter's appeal is denied, the provisions of § 24.2-708 shall be applicable, and the officers shall advise the voter that he may vote on presentation of a statement signed by him that he has not received an absentee ballot and subject to felony penalties for making false statements pursuant to § 24.2-1016.

D. Absentee ballots may be processed as required by § 24.2-711 by the officers of election at the central absentee voter precinct prior to the closing of the polls but the ballot container shall not be opened and the counting of ballots shall not begin prior to that time. In the case of machine-readable ballots, the ballot container may be opened and the absentee ballots may be inserted in the counting

machines prior to the closing of the polls in accordance with procedures prescribed by the Department of Elections, including procedures to preserve ballot secrecy, but no ballot count totals shall be initiated prior to that time.

As soon as the polls are closed in the county or city the officers of election at the central absentee voter precinct shall proceed promptly to ascertain and record the vote given by absentee ballot and report the results in the manner provided for counting and reporting ballots generally in Article 4 (§ 24.2-643 et seq.) of Chapter 6.

E. The electoral board *or general registrar* may provide that the officers of election for a central absentee voter precinct may be assigned to work all or a portion of the time that the precinct is open on election day subject to the following conditions:

1. The chief officer and the assistant chief officer, appointed pursuant to § 24.2-115 to represent the two political parties, are on duty at all times; and

2. No officer, political party representative, or other candidate representative shall leave the precinct after any ballots have been counted until the polls are closed and the count for the precinct is completed and reported.

F. The general registrar may provide that the central absentee voter precinct will open after 6:00 a.m. on the day of the election provided that the office of the general registrar will be open for the receipt of absentee ballots until the central absentee voter precinct is open and that the officers of election for the central absentee voter precinct obtain the absentee ballots returned to the general registrar's office for the purpose of counting the absentee ballots at the central absentee voter precinct and provided further that the central absentee voter precinct is the same location as the office of the general registrar.