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HOUSE BILL NO. 1250

Offered January 10, 2018

Prefiled January 10, 2018

A BILL to amend and reenact § 24.2-103 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-103.1, relating to electoral boards and general registrars; supervision by the State Board and Department of Elections.

Patrons—Sickles, Adams, D.M., Boysko, Gooditis, Hope, Krizek, Levine, Plum and Simon; Senator: Ebbin

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-103 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-103.1 as follows:

§ 24.2-103. Powers and duties in general.

A. The State Board, through the Department of Elections, shall supervise and coordinate the work of the county and city electoral boards and of the registrars to obtain uniformity in their practices and proceedings and legality and purity in all elections. It shall make rules and regulations and issue instructions and provide information consistent with the election laws to the electoral boards and registrars to promote the proper administration of election laws. Electoral boards and registrars shall provide information requested by the State Board and the Department and shall follow (i) the elections laws and (ii) the rules and regulations of the State Board insofar as they do not conflict with Virginia or federal law. The State Board shall post on the Internet within three business days any rules or regulations made by the State Board. Upon request and at a reasonable charge not to exceed the actual cost incurred, the State Board shall provide to any requesting political party or candidate, within three days of the receipt of the request, copies of any instructions or information provided by the State Board to the local electoral boards and registrars.

B. The State Board, through the Department of Elections, shall ensure that the members of the electoral boards and general registrars are properly trained to carry out their duties by offering training annually, or more often, as it deems appropriate, and without charging any fees to the electoral boards and general registrars for the training. The State Board shall set the training standards for the officers of election and shall develop standardized training programs for the officers of election to be conducted by the local electoral boards and the general registrars. Training of the officers of election shall be conducted and certified as provided by § 24.2-115.2. The State Board shall provide standardized training materials for such training and shall also offer on the Department of Elections website a training course for officers of election. The content of the online training course shall be consistent with the standardized training programs developed pursuant to this section. The State Board shall review the standardized training materials and the content of the online training course every two years in the year immediately following a general election for federal office.

C. ~~The State Board may institute proceedings pursuant to § 24.2-234 for the removal of any member of an electoral board who fails to discharge the duties of his office in accordance with law. The State Board may petition the local electoral board to remove from office any general registrar who fails to discharge the duties of his office according to law. The State Board may institute proceedings pursuant to § 24.2-234 for the removal of a general registrar if the local electoral board refuses to remove the general registrar and the State Board finds that the failure to remove the general registrar has a material adverse effect upon the conduct of either the registrar's office or any election. Any action taken by the State Board pursuant to this subsection shall require a recorded majority vote of the Board.~~

~~D.~~ The State Board may petition a circuit court or the Supreme Court, whichever is appropriate, for a writ of mandamus or prohibition, or other available legal relief, for the purpose of ensuring that elections are conducted as provided by law.

~~E.~~ D. The Department of Elections shall supervise its own staff to assure that no member of its staff shall serve (i) as the chairman of a political party or other officer of a state-, local-, or district-level political party committee or (ii) as a paid or volunteer worker in the campaign of a candidate for nomination or election to an office filled by election in whole or in part by the qualified voters of the Commonwealth.

~~F.~~ E. The State Board shall adopt a seal for its use and bylaws for its own proceedings.

~~G.~~ F. A telephone call between two members of the Board preparing for a meeting shall not constitute a meeting under the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et

58 seq.), provided that no discussion or deliberation takes place that would otherwise constitute a meeting.

59 **§ 24.2-103.1. Direction of electoral boards and general registrars.**

60 A. The State Board, through the Department and the Commissioner of Elections, shall coordinate the
61 work of the electoral boards, its members, and the general registrars to (i) obtain uniformity in their
62 practices and proceedings; (ii) ensure compliance with all applicable state and federal laws and the
63 rules, regulations, and instructions promulgated or developed by the State Board or the Department;
64 and (iii) obtain legality and purity in all elections. This shall include conducting reviews, audits, and
65 other post-election analysis of the conduct and work of the electoral boards, its members, and the
66 general registrars.

67 B. In the event that the State Board, through the Department and the Commissioner of Elections,
68 determines that an electoral board, one of its members, or a general registrar has failed to comply with
69 applicable state or federal law or a rule, regulation, or instruction promulgated or developed by the
70 State Board or the Department, the Board, acting through the Commissioner of Elections or his
71 designee, shall work directly with the electoral board or general registrar to:

72 1. Identify the failure to comply with state or federal law or State Board or Department rule,
73 regulation, or instruction;

74 2. Establish a plan to correct the failure; and

75 3. Implement, with the full cooperation of the electoral board or general registrar, the plan to
76 correct the failure. In the event of a difference of policy or opinion between the electoral board, a
77 member of the electoral board, the general registrar, or other person involved and the Commissioner of
78 Elections or his designee, pertaining to the manner in which particular duties are to be carried out, the
79 policy or opinion of the Commissioner or his designee shall control.

80 C. If the State Board, through the Department and the Commissioner of Elections, determines that
81 the electoral board, one of its members, or a general registrar has negligently failed to comply with all
82 applicable state and federal laws and the rules, regulations, and instructions promulgated or developed
83 by the State Board or the Department or fails to comply or cooperate with the corrective plan
84 established pursuant to subsection B, the State Board, through the Department and the Commissioner of
85 Elections, shall require that official to participate in a retraining program approved by the State Board.
86 If the State Board, through the Department and the Commissioner of Elections, determines that the
87 electoral board, one of its members, or a general registrar has willfully failed to comply with all
88 applicable state and federal laws and the rules, regulations, and instructions promulgated or developed
89 by the State Board or the Department, it shall institute proceedings pursuant to § 24.2-234.