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HOUSE BILL NO. 2588

Offered January 9, 2019

Prefiled January 9, 2019

A BILL to amend and reenact § 24.2-462 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-462.1, relating to Uniform Military and Overseas Voters Act, secure return of voted military-overseas ballots by electronic means; blockchain; pilot program.

Patron—Rush

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-462 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-462.1 as follows:

§ 24.2-462. Receipt of voted ballot.

A valid military-overseas ballot ~~must~~ shall be counted if it is delivered (i) to the address that the appropriate state or local election office has specified by the close of the polls on the date of the election ~~except as provided in~~, (ii) according to the provisions of § 24.2-709, or (iii) according to the standards and procedures promulgated by the Commissioner for secure electronic return of military-overseas ballots pursuant to the pilot program established in § 24.2-462.1 by the close of the polls on the date of the election.

§ 24.2-462.1. Secure electronic return of military-overseas ballots; pilot program.

A. The Commissioner of Elections shall establish and supervise a pilot program for the electronic return of voted military-overseas ballots. An active duty member of a uniformed service who has been called to duty for deployment overseas and is a registered voter of a participating county or city may return his voted military-overseas ballot by electronic means.

B. The Commissioner shall promulgate standards and develop procedures for the secure transmission and return, storage, and processing of voted military-overseas ballots. To the fullest extent practicable, these standards and procedures shall incorporate the use of blockchain technology, meaning technology that uses distributed databases and ledgers protected against revision by publicly verifiable open source cryptographic algorithms and protected from data loss by distributed records sharing. These standards and procedures shall include:

1. Security measures that reasonably secure the transmission, processing, and storage of voter data from interception and unauthorized access;

2. Methods for verifying and authenticating the identity of the voter; and

3. Methods for the encryption of the voted ballots.

The Commissioner shall ensure that any system used for the electronic return of voted military-overseas ballots is auditable and end-to-end verifiable. It shall be capable of allowing the voter to track the transmission of his voted ballot and to determine that the secure transmission of his ballot was successful.

The Commissioner shall develop a procedure for a security review to be conducted in each participating county or city after each election, based on an evaluation of the number of or any discrepancy in the voted ballots received electronically, and shall issue a report on its findings.

The Commissioner may waive the witness signature requirement of § 24.2-707 as part of the pilot program.

The Commissioner shall develop a timetable and process for participating counties and cities to notify the voters in the county or city who are eligible to return a voted military-overseas ballot by electronic means through the pilot program. Such process shall include instructions for casting a ballot through the pilot program and notice that an eligible voter has the right to vote by mail.

C. Any county or city may apply for participation in the pilot program by submitting a proposal to the Commissioner. The proposal shall be on a form and include such information as prescribed by the Commissioner, including the number of voters in the county or city estimated to be eligible to return a voted military-overseas ballot by electronic means through the pilot program. The Commissioner shall prescribe the criteria that a locality must meet in order to be approved for participation in the pilot program.

A county or city approved for participation shall accept voted military-overseas ballots cast by active duty members of the uniformed services who have been called to duty for deployment in every election held in the county or city during its participation in the pilot program.

Every participating county and city shall follow all instructions and procedures prescribed by the

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59 Commissioner, including participation in the post-election security review, pursuant to his authority in
60 subsection B.

61 D. Any voter eligible to return his voted military-overseas ballot by electronic means through the
62 pilot program shall be permitted to sign the statement of voter accompanying his military-overseas
63 ballot, and any other documents related to absentee voting or applying to absentee vote, using his
64 digital signature associated with his Common Access Card issued by the U.S. Department of Defense or
65 any replacement to the Common Access Card issued by the U.S. Department of Defense. Such signature
66 shall be deemed to meet the requirements of §§ 24.2-706 and 24.2-707.

67 E. In each year of the pilot program, the Commissioner shall conduct a security assessment and
68 update the security measures developed pursuant to subsection B in order to ensure the accuracy and
69 integrity of voted military-overseas ballots returned by electronic means.

70 **2. That the pilot program established pursuant to this act shall be in effect for elections held on**
71 **and after January 1, 2020.**

72 **3. That the provisions of this act shall expire on December 31, 2024. The Commissioner of**
73 **Elections shall submit to the Governor and the General Assembly on or before December 1, 2024,**
74 **a report on the outcomes of the pilot program in every participating county or city. The report**
75 **shall include a recommendation to the General Assembly regarding whether to implement the**
76 **electronic return of military-overseas ballots cast by active duty members of the uniformed**
77 **services called to duty for deployment overseas through the use of blockchain technology, as**
78 **defined in this act, on a permanent, statewide basis. If making such a recommendation, the report**
79 **shall also include legislative recommendations to improve the efficiency, effectiveness, and security**
80 **of such program.**