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SENATE BILL NO. 1246

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Privileges and Elections
on January 26, 2021)

(Patrons Prior to Substitute—Senators Deeds and Saslaw [SB 1376])

A BILL to amend and reenact §§ 24.2-709.1 and 24.2-712 of the Code of Virginia, relating to absentee voting; mandatory processing of returned absentee ballots before election day; central absentee voter precinct in the office of the general registrar.

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-709.1 and 24.2-712 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-709.1. Processing returned absentee ballots before election day.

Each general registrar shall take one or more of the following measures as needed to expedite counting absentee ballots returned by mail before election day: (i) A. On receipt of an absentee ballot returned in person or by mail to the office of the general registrar before election day, the general registrar shall mark the date of receipt and examine the ballot envelopes envelope to verify completion of the required voter affirmation; (ii). If the voter affirmation on the ballot envelope is complete, the registrar shall mark the pollbook, or the absentee voter applicant list if the pollbook is not available, that the voter has voted; or (iii) open the sealed ballot envelopes and insert the ballots in optical scan counting equipment or other secure ballot container without initiating any ballot count totals. If the general registrar proceeds to open sealed ballot envelopes as provided in clause (iii), at A voter affirmation statement shall not be deemed to be incomplete on the sole basis of the voter's failure to provide (i) his full name or his middle initial, as long as the voter provided his full first and last name, or (ii) the date, or any part of the date, including the year, on which he signed the statement. Without breaking the ballot envelope's seal, the general registrar shall deposit any completed absentee ballot into a secure container provided for such purpose, in which it shall remain until it is counted pursuant to subsection B.

B. Before election day the electoral board shall deliver the secure containers containing completed absentee ballots received before election day to, and obtain a receipt from, the officers of election at a central absentee precinct. The general registrar shall direct the officers of election at that precinct to open the sealed ballot envelopes and insert the ballots in optical scan counting equipment or other secure ballot container without initiating any ballot count totals.

At least two officers of election, one representing each political party, shall be present during all hours when a general registrar uses the expedited procedures sealed ballot envelopes are opened as authorized in or required by this section subsection. No person present while sealed ballot envelopes are opened and ballots are inserted into counting equipment or other secure ballot container pursuant to clause (iii) shall disclose any information concerning the ballots.

In the event that circumstances prevent a general registrar from complying with the provisions of this subsection, such failure shall not be grounds for contesting the election pursuant to Article 2 (§ 24.2-803 et seq.) of Chapter 8 and shall not invalidate the absentee ballots.

§ 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 shall establish and maintain at least one or more central absentee voter precincts precinct 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 A central absentee voter precinct shall be made established 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 § 24.2-709.1 or 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

60 counted with other absentee votes. If the voter's appeal is denied, the provisions of § 24.2-708 shall be
61 applicable, and the officers shall advise the voter that he may vote on presentation of a statement signed
62 by him that he has not received an absentee ballot and subject to felony penalties for making false
63 statements pursuant to § 24.2-1016.

64 D. Absentee ballots ~~may~~ *shall* be processed as required by § 24.2-709.1 or 24.2-711 by the officers
65 of election at the central absentee voter precinct prior to the closing of the polls. In the case of
66 machine-readable ballots, the ballot container ~~may~~ *shall* be opened and the absentee ballots ~~may~~ *shall* be
67 inserted in the counting machines prior to the closing of the polls in accordance with procedures
68 prescribed by the Department of Elections, including procedures to preserve ballot secrecy, but no ballot
69 count totals by the machines shall be initiated prior to the closing of the polls.

70 In the case of absentee ballots that are counted by hand, the officers of election ~~may~~ *shall* begin
71 tallying such ballots at any time after 3:00 p.m. on the day of the election in accordance with the
72 procedures prescribed by the Department of Elections, including procedures to preserve ballot secrecy.
73 No counts of such tallies shall be determined or transmitted outside of the central absentee voter
74 precinct until after the closing of the polls. The use of cellular telephones or other communication
75 devices shall be prohibited in the central absentee voter precinct during such *processing and* tallying and
76 until the closing of the polls. Any person present in the central absentee voter precinct shall sign a
77 statement under oath that he will not transmit any counts prior to the closing of the polls. Any person
78 who transmits any counts in violation of this section is guilty of a Class 1 misdemeanor.

79 As soon as the polls are closed in the county or city, the officers of election at the central absentee
80 voter precinct shall proceed promptly to ascertain and record the total vote given by all absentee ballots
81 and report the results in the manner provided for counting and reporting ballots generally in Article 4
82 (§ 24.2-643 et seq.) of Chapter 6.

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

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

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

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