

LD2119112

HOUSE BILL NO. 402

Offered January 21, 1994

A *BILL to amend and reenact §§ 24.2-668 and 24.2-669 of the Code of Virginia, relating to post-election procedures and retention of election materials by clerk of circuit court.*

Patrons—Melvin and Almand

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-668 and 24.2-669 of the Code of Virginia are amended and reenacted as follows:

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

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 until the time has expired for initiating a recount, contest, or other proceeding in which the pollbooks may be needed as evidence and there is no proceeding pending. After that time the clerk shall deliver the pollbooks to the general registrar who shall preserve them for five years from the date of the election. The clerk shall retain the statement of results and any printed inspection and return sheets for *any federal election* for two years and may then destroy them *and for any other election for one year and may then destroy them.*

§ 24.2-669. Clerk to keep ballots for certain time; inspection; destruction.

The clerk to whom the counted and uncounted ballots are delivered shall, without breaking the seal, deposit them in a secure place in his office, where they shall be kept for the time required by this section. He shall not allow the ballots to be inspected except (i) by an authorized representative of the State Board or by the electoral board at the direction of the State Board to ensure the accuracy of the returns or the purity of the election, (ii) by the officers of election, and then only at the direction of the electoral board in accordance with § 24.2-672 when the provisions of § 24.2-662 have not been followed, or (iii) on the order of a court before which there is pending a proceeding for a contest or recount under Chapter 8 (§ 24.2-800 et seq.) of this title or before whom there is then pending a proceeding in which the ballots are necessary for use in evidence.

After the counted ballots *for a federal election* have remained in the clerk's office for two years, if no election contest or other proceeding is pending in which such ballots may be needed as evidence, the clerk shall destroy such ballots. *After the counted ballots for any other election have remained in the clerk's office for one year, if no election contest or other proceeding is pending in which such ballots may be needed as evidence, the clerk shall destroy such ballots.* After the unused ballots have remained in the clerk's office and the time has expired for initiating a recount, contest, or other proceeding in which such ballots may be needed as evidence and no such contest or proceeding is pending, the clerk may then destroy the unused ballots.

INTRODUCED

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