

**REPORT OF THE  
JOINT SUBCOMMITTEE STUDYING**

**WAYS TO IMPROVE THE  
REGISTRATION AND  
ELECTORAL PROCESS AND  
ENCOURAGE VOTER  
PARTICIPATION**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



**HOUSE DOCUMENT NO. 30**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1996**



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Delegate Robert D. Orrock, Sr.  
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**REPORT OF THE JOINT SUBCOMMITTEE STUDYING WAYS  
TO IMPROVE THE REGISTRATION AND ELECTORAL PROCESS  
AND ENCOURAGE VOTER PARTICIPATION**

**To  
The Governor  
and  
the General Assembly of Virginia**

**Richmond, Virginia  
January 1996**

**I. BACKGROUND**

**A. Authority and Scope**

In 1993, the General Assembly passed House Joint Resolution No. 532 (Appendix A), which established a nine-member joint subcommittee to study ways to improve the registration and electoral process and encourage voter participation. In its study, the subcommittee also considered (i) ways to assist voters to retain their right to vote when they move within the Commonwealth and (ii) the meaning of the term "residence" in determining the voter qualification of students attending Virginia's institutions of higher learning. [See House Joint Resolution No. 488 (Appendix B) and House Joint Resolution No. 570 (Appendix C).]

The 1994 Session of the General Assembly authorized the continuation of the study, expanding its charge to include an assessment of the impact on Virginia of the newly enacted National Voter Registration Act (NVRA). [See House Joint Resolution No. 30 (Appendix D).] Passed in May 1993, the NVRA requires states to expand and revise voter registration procedures for federal elections to make it easier for persons to register and remain registered. A number of options are provided to the states in implementing the act, including the application of the act to state and local elections. Most states have chosen to extend the act to state and local elections in order to avoid the cost and administrative entanglements of maintaining a dual registration system--one for federal elections and another for state and local elections. The subcommittee was charged with identifying the mandatory and permissive provisions of the act and recommending legislation and

policies to bring Virginia into full compliance in a manner that would benefit Virginia's electorate.

The State Board of Elections' National Voter Registration Task Force was requested to assist the joint subcommittee in developing proposed legislation to implement the federal act. [See House Joint Resolution No. 29 (Appendix E).] The task force, an ad hoc study group comprised of agency personnel, general registrars and other individuals knowledgeable about election laws, was formed originally to evaluate the legal, fiscal, and administrative impacts of the NVRA.

## **B. Members**

Serving on the joint subcommittee were Delegates James M. Scott of Fairfax County (Chairman), Julia A. Connally of Arlington, V. Earl Dickinson of Louisa, Robert D. Orrock, Sr., of Spotsylvania, and John Watkins of Chesterfield, and Senators Joseph V. Gartlan, Jr., of Fairfax County (Vice Chairman), Hunter B. Andrews of Hampton, Benjamin J. Lambert III, of Richmond City, and Kevin G. Miller of Harrisonburg.

## **C. Voter Participation Rates**

Recognizing that one of the most important aspects of a representative government is having an informed and involved electorate, the Commonwealth has adopted a policy to encourage voter participation while maintaining the integrity of the registration and electoral process. In recent years, the Commonwealth has enacted numerous changes to its election laws to increase the number of registered voters by offering more registration times and places, permitting statewide registration, and authorizing general registrars to enter into agreements with DMV to provide for registration at Division of Motor Vehicle offices.

However, despite the Commonwealth's efforts to foster voter participation, only 53 percent of Virginia's voting age population voted in the 1992 Presidential election and only 63 percent of the voting age population was registered to vote in that election.<sup>1</sup> The average voter participation rate in Virginia is probably even lower, since Presidential races typically attract the most voters and many election analysts believe that the 1992 election was an aberration in its high turnout rate.

Whether voter participation rates accurately reflect voter interest in politics and attention to governmental affairs remains a question. Election analysts generally agree that voter participation rates must be analyzed with caution

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<sup>1</sup> Council of State Governments, The Book of the States 1994-1995, p. 226.



because certain factors contribute to the under-reporting of voter turnout. First, under-reporting occurs when states calculate voter turnout as the number of votes cast for a certain office. This method excludes voters who do not vote for that office and voters whose ballots are declared invalid. Second, voting age population includes a number of ineligible voters because the Census Bureau includes in its voting age population estimates all persons residing in a particular location, regardless of citizenship, permanent residence, or other disqualifications to vote. Among Virginia's ineligible population are convicted felons whose civil rights have not been restored, persons adjudicated mentally incompetent, and students and military personnel who reside temporarily in Virginia. If a state carries a large share of ineligible population, as arguably Virginia does, any comparison of that state's voter participation rate to another state's can be misleading. This rationale may explain why Virginia is among the states with the lowest voter participation rates. In 1992, Virginia ranked 46th out of the 50 states in voter turnout.<sup>2</sup>

Even if Virginia's voter participation rates are under-reported, most people agree that voter turnout in Virginia could be improved. What causes low turnout and what remedies are effective in correcting the problem are continuing sources of disagreement among election analysts and politicians. Some attribute low turnout to increased levels of political alienation among U.S. citizens. Others claim that electoral policies and practices, often designed to prevent voter fraud and abuse, create procedural barriers that make registration and voting difficult. Still others believe that low turnout is a reflection of the low level of organized political conflict.<sup>3</sup>

## **D. Procedures to Increase Voter Participation**

### **1. State-Initiated Programs**

State-initiated approaches designed to increase voter turnout often reflect the different opinions of what causes low turnout. Approaches that focus on stimulating voter interest generally encourage the development of voter outreach programs to provide more information about voting and candidates. Other approaches focus on revising electoral policies and practices to improve accessibility to the electoral process. These latter approaches have generated a considerable amount of electoral reform. Recent state and local initiatives include (i) the use of mail ballots in referendum and town elections; (ii) the expansion or revision of hours for voting at the polls; (iii) expanded opportunities to register to vote by mail and at more convenient and accessible registration sites, including motor vehicle

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<sup>2</sup> Ibid.

<sup>3</sup> United States General Accounting Office, Voting: Some Procedural Changes and Information Activities Increase Turnout, November 2, 1990, pp. 20-22.

and other state agency offices; and (iv) changes in allocating electoral college votes to reflect the popular vote in each congressional district.

In 1992, the Federal Election Commission (FEC) completed a series of studies which documented the experiences of states that have implemented motor voter and agency-based registration. These reports highlighted the various approaches and procedures taken to implement these programs and identified particularly successful policies and practices.

Passive agency registration, a practice involving little or no direct involvement by agency personnel except for displaying announcements and making voter registration forms available, has been in existence in some states since the 1970s, e.g., Wisconsin (1973), California (1976) and Pennsylvania (1976). Michigan became the first state to introduce active agency voter registration in 1975 with its "motor voter" law, providing voter registration to applicants for new or renewed driver's licenses. Other states enacted similar motor voter laws throughout the late 1970s and early 1980s. By 1992, approximately half of the states used some version of the motor voter system.<sup>4</sup>

Although each motor voter system is unique, they all share one common feature: each driver licensing system is run by the state and designed to be accessible statewide. The systems typically differ by (i) the method in which prospective applicants are notified of their opportunity to register--passively or actively--and (ii) the type of voter application form used in conjunction with agency form--separate, combined or computer-generated. Generally, those programs that include either active registration or a combined voter-agency form have the greatest impact on voter registration rates.<sup>5</sup>

In 1984, New Mexico, New York, Ohio, and Texas expanded active agency voter registration to other state agencies with a high volume of direct public contact. Since then, agency voter registration programs have proliferated. Some states have mandated passive voter registration in specific agencies, some in all agencies. States that have enacted mandatory active agency voter registration include Minnesota, New Jersey and Rhode Island. Some states statutorily permit active or passive registration or both, but leave the implementation to the discretion of local election officials. In some states where the statutes are silent on the subject, state and local election officials have made effective use of mail registration, either on their own initiative or with the aid of executive orders.<sup>6</sup> In 1992, approximately 30 states had implemented mail registration.

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<sup>4</sup> Federal Election Commission, Agency Voter Registration Programs, Innovations in Election Administration, No. 5 (September 1992), pp. 1 and 2.

<sup>5</sup> Federal Election Commission, Motor Voter Registration Programs, Innovations in Election Administration, No. 6 (September 1992), p. 32.

<sup>6</sup> Agency Voter Registration Programs, p.2.

## **2. National Voter Registration Act of 1993**

### **a. History**

In 1988, Congress launched a comprehensive study to determine the primary causes for the apparent 30-year decline in citizen participation in federal elections. In 1960, approximately 62.8 percent of the voting age population went to the polls; by 1988, this figure had dropped to approximately 50.1 percent.<sup>7</sup> Although Congress realized that multiple and complex factors had contributed to the decline in voter participation, including disinterest in the political process, it hoped to isolate those factors that would respond to legislative initiatives.

During the 101st Congress, the Committee on House Administration held a series of public hearings in which witnesses testified that registration procedures in the United States were not uniform, were discriminatory and, in some cases, were interpreted in such a manner as to deny eligible citizens their right to vote. Although the committee found that the Voting Rights Act of 1965 had made the most restrictive of these practices illegal, e.g., literacy tests, poll taxes, annual registrations, and race-based purging of voter rolls, it could not dismiss the complaints or problems cited. When asked the primary reason they had not voted in the most recent election, most respondents at the congressional hearings and those surveyed in independent opinion polls said that it was their failure to be registered. To complicate matters, the committee found that many of the current registration practices arose from states' attempts to respond to election officials' legitimate administrative concerns, such as the detection and prevention of fraud, the maintenance of accurate and up-to-date voter rolls, and the removal of names of ineligible persons from the rolls. Mobility of the population increased the impact of these registration procedures.

In developing the federal legislation, the committee considered a variety of proposals to make the registration process more accessible. Since registration by mail was already in place in approximately half the states and evidence supported that this procedure successfully reached those groups most under-represented on the registration rolls, the committee adopted this method of registration as a national standard.

The committee applied the same rationale in adopting agency registration as another national standard. As a successful program in many states, agency registration offered the opportunity to reach even more people in under-represented groups. After examining many of the programs, the committee found that the simultaneous application procedure for a driver's license and voter registration offered the broadest, most effective, and most cost-efficient method of agency

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<sup>7</sup> Congressional Digest, "GAO Report on Voter Turnout," March 1993, p.71.

registration. Statistics from the Department of Transportation indicated that 87 percent of the population 18 years and older had a driver's license. Another three or four percent had, in lieu of a driver's license, an identification card issued by the state motor vehicle agency. Processing systems used by DMVs to accept license applications were sufficiently adaptable for incorporation of motor voter registration. Based on these findings, the committee concluded that a combination of motor voter, mail, and agency-based registration would provide the best approach for increasing voter registration opportunities for eligible citizens.

Ensuring that these expanded opportunities to register would not weaken the validity of the registration rolls became the next priority of the committee. The committee concluded that the prohibition against purging registered voters from the rolls for failure to vote would not increase voter fraud as long as other list verifications were in place. The committee agreed that any voter list maintenance procedure must be uniform, nondiscriminating, and in compliance with the Voting Rights Act.<sup>8</sup>

#### **b. Major Provisions**

In response to the testimony at the congressional hearings, legislation was initially introduced at the 101st Congress and, with a few minor revisions, was enacted into law during the 103rd Congress as the National Voter Registration Act. Also known as the "Motor Voter Act," the measure incorporated several aspects of the most successful state voter registration procedures. The act governs registration procedures for federal elections. It requires states to provide:

- Simultaneous application for driver's license and voter registration;
- Mail application for voter registration; and
- Application in person at designated government agencies, including public assistance agencies, agencies that primarily provide services to people with disabilities, and recruitment offices of the armed services.

In addition to these mandatory locations, states must designate another voter registration agency and are encouraged to designate such agencies as public libraries, public schools, fishing and hunting license bureaus, government revenue offices, and other offices that provide services to people with disabilities.

The federal law also prohibits the removal of a voter's name for failure to vote and requires certain notice and removal procedures to protect registered voters who have moved. Certain fail safe voting procedures allow registered voters to update their addresses and to vote on election day if they have moved within the

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<sup>8</sup> United States Committee on House Administration, National Voter Registration Act of 1993 Report, February 3, 1993, pp. 2-5.

same election official's jurisdiction and the same congressional district without filing a change of address in advance. States may choose either the old or new polling place to accommodate such voters. If the state does not choose either the old or new precinct, the person may choose either the old precinct or a central voting location.

The Federal Election Commission has developed a national mail-in voter registration form that each state must accept to register voters for federal elections.

### **c. Compliance in Other States**

The federal act became effective in most states on January 1, 1995. Exempt from the act are Minnesota and Wisconsin, which allow election day registration; North Dakota, which does not require voters to register; and Wyoming, which enacted an election day registration law during its 1993 Session. Idaho and New Hampshire passed laws to institute election day registration retroactively in an attempt to gain exemption from NVRA mandates. The Justice Department has not taken action against these two states, even though the act contained language prohibiting the circumvention of the law in this manner. Because Arkansas, Vermont and Virginia claimed constitutional conflicts at the time the NVRA was passed, these states considered themselves exempt from the January 1, 1995, compliance deadline.

The other 41 states are now covered by the act. Because the federal law was superfluous in many of these states, implementation required only minor revisions in voter registration procedures. To avoid the cost of establishing a dual registration system, most states have elected to change their voter registration procedures to parallel those of the federal act.

States that are not in full compliance are either in various stages of litigation or under close scrutiny by the Department of Justice. In the first half of 1995, the Justice Department filed suit against California, Illinois, Pennsylvania, and South Carolina asking the federal court to order them to implement the Motor Voter Act. California and South Carolina had previously filed their suits challenging Congress' constitutional authority to interfere with state agency activities and mandate state action without appropriating adequate funding. These suits contend that the Motor Voter Act is an unfunded mandate that infringes on state sovereignty and violates the 10th Amendment of the United States Constitution. In its suit, Illinois contends that the federal law creates a greater potential for voter fraud, a concern shared by many states.<sup>9</sup>

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<sup>9</sup> State Legislatures, "Feds Sue States Over 'Motor Voter'," April 1995, p. 6.

Private groups have sued in a number of states to enforce compliance. Prior to the January 1, 1995, effective date, Indiana was sued by the AFL-CIO, but negotiated a consent agreement to comply with the national act. Other private action lawsuits were filed in Kansas, for failure to pass enabling legislation; in Michigan, for failure to implement agency registration; in Mississippi, for its election to implement dual registration as a method to comply with the NVRA without obtaining § 5 preclearance under the Voting Rights Act; and in New Hampshire, to enjoin the state to comply with the federal law even though the state had adopted election day registration. In response, the New Hampshire legislature passed a bill in June 1995 to eliminate election day registration and create a dual registration system if the court orders the state to comply with the National Voter Registration Act.<sup>10</sup> In Mississippi, the United States district court ruled that that the federal government and not Mississippi had created the dual registration system. Preclearance was not necessary since the state was only performing nondiscretionary acts required by the federal law and had not proposed any additional change in its election laws or practices.

#### **d. Virginia's Constitutional Compliance**

While implementation of the federal act in some states required only cosmetic changes to existing registration laws, substantial changes were necessary both in Virginia's election laws and its Constitution to bring the state into compliance and avoid the cost of implementing a dual registration system.

In anticipation of the passage of the NVRA, the 1993 General Assembly took the first step towards compliance with the federal act by proposing a constitutional amendment to remove two conflicting voter registration and list maintenance procedures. [See House Joint Resolution No 395 (Appendix F).] First, the proposed amendment deleted the requirement for in-person registration, opening the door for the General Assembly to provide for mail registration, one of the key provisions of the act. In-person registration would be continued, but only as an option for an applicant. Second, the proposed amendment removed the requirement for the cancellation of a voter's registration for nonvoting, an improper voter verification procedure under the NVRA. Other voter verification procedures would be permissible as long they followed the federal standards for uniformity and nondiscrimination. Because of these constitutional conflicts, Virginia was one of three states entitled to an extension to bring its registration procedures into compliance. At the November 1994 election, the Commonwealth's voters approved the changes proposed by the constitutional amendment by a 52.7 percent majority--919,058 to 826,363 votes.

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<sup>10</sup> Election Administration Reports, "NVRA Implementation Proceeding At Mixed Rate in the States," May 15, 1995, pp. 3 and 4 and Election Administration Reports, "New Hampshire to Adopt Dual Registration if NVRA Suit Loses, June 12, 1995 p. 3.

## II. SUBCOMMITTEE'S DELIBERATIONS IN 1993 - 1995

### A. Constitutional Compliance Revisited

Because the 1993 General Assembly adopted the constitutional amendment before all the provisions of the NVRA had become final, members of the subcommittee became concerned that certain constitutional issues may not have been addressed by the amendment. In particular, members questioned the discrepancy between the federal act and Article II, § 1 of Virginia's Constitution concerning the time a person who has moved can continue to vote in his old precinct.

The federal law grants voters who have moved within the same locality and the same congressional district the right to vote through two federal elections. Each state may designate either the old precinct or new precinct to accommodate these voters. If the state does not designate a location, the voter has the right to choose either the old precinct or a central voter location. In contrast, Virginia's Constitution provides that a person who has moved within Virginia may return to vote in his old precinct only through the next general election. A person is qualified to vote at his new precinct if he is properly registered. To clarify the legal implications of these conflicting provisions, Delegate Scott, on behalf of the subcommittee, requested an opinion from the Attorney General of Virginia to determine if the proposed constitutional amendment would enable Virginia to conform its voter registration for state and local elections to the procedures mandated for federal elections under the NVRA without having to adopt dual registration.

In an opinion issued December 13, 1994, the Attorney General stated that, for elections for federal offices, the NVRA preempted the conflicting state constitutional law by virtue of the supremacy clause of the Constitution of the United States. In other words, Virginia would have to honor the fail-safe voting provisions of the NVRA and allow a person to vote for federal offices in federal elections. The Attorney General also found that Virginia, by its Constitution and laws, had designated the old precinct as the fail-safe voting location for these voters. By designating the old precinct, Virginia had to apply both laws whenever a federal election coincided with a state or local election. As a consequence, some persons would be qualified to vote only in the federal elections for federal offices.

To ensure that only voters who are qualified for an election actually vote in that election, election officials told the subcommittee that separate registration lists would have to be maintained at the polls. To avoid this situation, Article II, § 1 of the Constitution of Virginia could be amended to provide for the designation of the old precinct as a fail-safe voting location for the same period of time provided by

federal law. Another alternative would be to designate by law the new precinct as the fail-safe voting location for federal, state, and local elections. Nothing in Virginia's Constitution prevents Virginia from establishing registration procedures to allow a voter to vote in his new precinct. However, this last alternative met with resistance from elections officials, who claimed that the procedure would create greater potential for voter fraud and would require more extensive record keeping at the polls.

## **B. Public Hearings**

In 1993, the joint subcommittee adopted a work plan and held four regional public hearings across the Commonwealth to solicit comments on how to rekindle voter participation. The public hearings, held in Falls Church, Norfolk, Richmond and Abingdon, attracted persons with considerable knowledge and expertise on election administration and registration procedures. Speakers included general and deputy registrars, scholars on election reforms, and civic advocacy groups including the League of Women Voters, the American Civil Liberties Union, and the NAACP.

Those testifying at the public hearings urged the subcommittee to implement the NVRA for state and local elections to avoid the cost of maintaining dual registration. They also suggested that the subcommittee form a task force to review the numerous changes that would be necessary to implement the federal act. Because of the expected surge in registration--projected at one million new registrants--speakers encouraged the subcommittee to adopt technologically advanced enhancements for registration. Specific suggestions included using the combined form or computer-generated form at DMV locations and computerizing the National Change of Address Form.

Several speakers also suggested other reforms to increase voter participation in addition to the implementation of the NVRA. These suggestions included:

- Adopting a no-reason absentee ballot system. Currently a voter must state a reason (listed in § 24.2-700) before receiving and voting an absentee ballot.
- Moving the registration deadline closer to the day of the election. Recommendations for the deadline ranged from 10 days before the election to election day.
- Extending or changing the polling hours and increasing the number of polling locations, particularly to accommodate voters in urban areas who have difficulty getting to the polls. Extending the evening hours by one or two hours was suggested. (Polls are currently open from 6:00 a.m. to 7:00 p.m.)



- Adopting a proportional system of assigning the state's Presidential electors for the electoral college in order to reflect each candidate's percentage of the popular vote.
- Establishing an early voting system such as the one used in Texas. Other speakers recommended modifying the Texas system to reduce the period for early voting from 20 days to 14 or 7 days as a means to promote informed voting.
- Enhancing voter education by providing voting information announcements, candidate and issue pamphlets, voting records of members, and information about additional voter registration opportunities and civic programs in schools and prisons.
- Bringing elections closer to the people by requiring that all nominations for party candidates be by direct primary election and extending to voters the right of referendum and initiative.
- Opening opportunities for mail ballots (one reservation was made regarding the cost of mailing ballots to the voters).
- Extending the ballot to registered voters who have moved within Virginia and have not notified the registrar. Such persons would be allowed to vote by special ballot for statewide offices and issues.
- Expanding the sources from which prospective jury lists are derived, such as personal property tax records, lists of recipients of various government benefits, and income tax payers. Many citizens refuse to vote because they know that jurors primarily are selected from registration lists.
- Streamlining and facilitating election administration by including procedures to alleviate waiting at the polls; transmitting election materials electronically to military and overseas voters; and expanding and defining the responsibilities of registrars, assistant registrars, and local electoral board members.

Although the subcommittee discussed many of these electoral reforms at length, it decided to defer making any recommendations until the impact of the NVRA on registration and voter turnout had been determined. Election officials suggested waiting a year or two after the implementation of the NVRA to examine other programs.

### **C. Statutory Compliance with the NVRA: Development of Exposure Draft**

Following the passage of the constitutional amendment by the voters at the November 1994 election, the subcommittee resumed its work on November 23 to develop an exposure draft for implementing the NVRA for federal, state, and local elections. A preliminary draft identifying statutory revisions necessary to implement the mandatory provisions of the federal act was circulated at the November meeting. The subcommittee received several comments and suggestions regarding technical aspects of the legislation from the State Board of Elections, general registrars, and agency personnel. Nearly all these suggestions were incorporated into subsequent drafts presented at the subcommittee's work sessions in December and January. The subcommittee focused its deliberations on several discretionary provisions of the NVRA.

First, the subcommittee discussed which state agency should be designated to comply with the requirement that each state must offer voter registration at another state or local office in addition to the mandatory offices offering driver's licenses, public and disability assistance, and recruitment into the armed forces. Such discretionary voter registration agency may include state or local offices such as public schools, public libraries, offices of city and county clerks (including marriage license bureaus), fishing and hunting license bureaus, government revenue offices, unemployment compensation offices and other offices serving persons with disabilities. Testimony received during the work session suggested that the agency selected should meet the following criteria:

- The agency should represent a segment of the population not already reached by current registration procedures.
- The agency should be accessible statewide.
- The agency should not be overly burdened in carrying out the voter registration procedure. (Many speakers suggested that this criteria eliminated public libraries from consideration.)

The second issue discussed at the work sessions was the possibility of implementing an earlier effective date for mail registration. The subcommittee understood that although Virginia had been given additional time to comply with the NVRA, the General Assembly could implement any of the provisions of the act in time for the 1995 state and local elections. Of the major provisions of the act, the only provision suitable for early implementation appeared to be mail registration because motor voter and agency registration affected more entities, required more complex procedures and required extensive training. The subcommittee inquired whether mail registration could be implemented by July 1, 1995. In response, the

State Board of Elections indicated that an early mail registration program could be implemented prior to the 1995 election.

The possible need for an additional constitutional amendment was also briefly discussed. A new development in 1994 created the potential for another conflict between the federal law and Virginia's Constitution. The national mail-in registration form promulgated by the Federal Election Commission did not request from the applicant information constitutionally necessary for registration for state and local elections in Virginia. Primarily, the form did not request the applicant to declare his place of birth. Because Virginia must accept the national form for federal elections, a voter applying for registration by the national mail form would only be registered to vote for federal elections for federal offices. Although election officials assured the subcommittee that every effort would be made to obtain the constitutionally required information from these applicants, they could not rule out the possibility of having to maintain dual registration in some cases.

### **III. 1995 LEGISLATION**

#### **A. Explanation of HB 2327 and SB 911**

On January 23, 1995, Delegate Scott and Senator Gartlan offered for dual introduction House Bill 2327 and Senate Bill 911 (Appendix G), incorporating revisions discussed at the January 13, 1995, work session. The draft and the following explanation and section-by-section summary were circulated to all members of the subcommittee prior to introduction.

##### **1. Final Implementation Draft**

###### **a. DMV Registration**

**Federal requirements:** Applications for or renewal of a driver's license or non-driver identification card shall serve as a voter registration application, unless the applicant does not sign the voter registration application. A driver's license or non-driver identification card change of address notice must serve as a voter registration change of address unless the person declines.

**HB 2327/SB 911 response:** Provides for a single, simultaneous application process for a person to apply for, renew or replace a driver's license and to register to vote. A change of address form will initiate voter transfer procedures if the registered voter has moved to another general registrar's jurisdiction within the

Commonwealth and will be used to correct voter registration records if the voter remains in the same county or city.

### **b. Agency-Based Registration**

**Federal requirements:** States must offer voter registration services in conjunction with an application for services or assistance, recertification, renewals of licenses or change of address, in government offices providing public assistance, including Aid to Families with Dependent Children (AFDC), food stamps, Medicaid, and the Special Supplemental Food Program for Women Infants and Children (WIC); in offices providing state-funded programs for persons with disabilities; and in armed forces recruitment offices. These offices must provide the same level of assistance in completing the voter registration form as in completing an agency form, unless the applicant refuses such assistance. States must offer voter registration at other state or local governmental offices, which may include compensation offices, public schools, or public libraries.

**HB 2327/SB 911 response:** Designates the mandated agency offices and the offices of the Virginia Employment Commission as the required additional agency. This designation was recommended during the public hearings of the subcommittee. Although some states have designated public libraries as a voter registration location, the subcommittee agreed with the testimony presented that the financial burden on these high volume service-oriented entities would be too great at this time.

### **c. Registration by Mail**

**Federal requirements:** States must accept and use the mail-in voter registration form developed by FEC. States may also design and use their own form, which must meet the criteria of the act. Notarization or other formal authentication cannot be required by the state. The forms are to be made available for public and private distribution.

**HB 2327/SB 911 response:** Provides for registration by mail beginning July 1, 1995. Major provisions of the new article (i) authorize the State Board to develop a state mail registration form, (ii) provide for the general distribution of a reasonable number of mail registration forms, (iii) address the timeliness of receipt of the mail applications, and (iv) designate the general registrars as recipients of mail applications returned by third parties, e.g., deliveries from voter registration drives.

#### **d. Maintaining Voter Registration Rolls**

**Federal requirements:** Voters' names may not be removed from the registration rolls for not voting. Voters' names may be removed only at their request or as provided by state law by reason of criminal conviction or mental incapacity. States must conduct a systematic program, which may be the National Change of Address System, to maintain accurate and current voting lists. This program must be completed 90 days before any federal election. Certain procedures must be followed for registered voters who have moved within the locality and for registered voters who have moved out of the general registrar's jurisdiction. All records of such activities must be made available for public inspection for two years. For administrative purposes other than voting, e.g., calculating the number of signatures required on a nomination petition, a state may choose to distinguish between active and inactive voters maintained on the registration rolls.

**HB 2327/SB 911 response:** Clarifies the notification responsibilities of the general registrars in implementing the voter list maintenance program. If preliminary information from the postal service indicates that a registered voter has moved within the same locality, the general registrar corrects the registered voter's records and sends to the voter the notice of the change, along with an address verification return card. If the verification card is returned as undeliverable or if preliminary information from the postal service indicates that the person has moved out of the general registrar's jurisdiction, the general registrar sends an address confirmation notice explaining the responsibilities of the registrant to remain registered, along with an address verification return card. If the address verification card is not returned to the general registrar within 30 days, the name of the registered voter is placed on inactive status. A person placed on inactive status may be returned to active status by verifying his address within the period of the next two federal elections. An address confirmation notice, which initiates the process to inactivate a registered voter, may be sent if any official voter registration or election material sent to the voter is returned as undeliverable. Registered voters with inactive status are not counted in determining the number of signatures required for candidate and voter petitions and for determining election machine requirements. Because voter petitions are not always returned to the appropriate election official, the subcommittee decided against allowing a signature on a nominating petition to be grounds for returning a registered voter to active status.

#### **e. Fail-Safe Voting Provisions**

**Federal requirements:** States must allow registered voters to update their addresses and to vote on election day, if they have moved within the same general registrar's jurisdiction and the same congressional district without notifying the

general registrar of the change of address in advance. States may choose either the old or the new polling place for such voters. If the state does not choose, the person may choose either the old or a central location.

**HB 2327/SB 911 response:** Designates the old precinct as the place in which a registered voter, who meets all the qualifications under the federal act, may continue to vote in federal elections for federal offices after the time permitted by Virginia's Constitution for state and local elections. Virginia's Constitution already permits a registered voter who has moved his residence to another precinct in Virginia to return to vote in his old precinct through the next November election only.

#### **f. Effective Date**

**Federal requirements:** Virginia is given additional time to implement the NVRA because of the Commonwealth's Constitutional conflicts with the act.

**HB 2327/SB 911 response:** Establishes a delayed effective date, January 1, 1996, for all provisions of the draft, except for the implementation of mail registration and the requirement that the Secretary of the State Board of Elections and the Attorney General compile, by October 1, 1995, a list of state agencies required by the federal act to be designated as voter registration sites. These two provisions are effective in due course (July 1, 1995).

## **2. Section-by-Section Summary**

**§ 24.2-101. Definitions.** Proposes a new definition of registered voter that establishes two status classifications--active and inactive. Registered voters on inactive status are persons who have been identified as possibly having an incorrect address on the voter registration records and who have not responded to an address confirmation notice sent by the general registrar. These registered voters with inactive status are treated as a separate category and not counted when calculating the number of signatures required for candidate and voter petitions and establishing election machine requirements. A registered voter on inactive status who does not notify the general registrar of his correct address may be removed from the registration rolls after two federal elections.

**§ 24.2-114. Duties and powers of general registrar.** Clarifies that state-designated voter registration locations necessitated by the federal act, are in addition to registration locations established and maintained by the general registrar.

§ 24.2-401. **Persons moving from precinct.** Designates the old precinct as the polling place in which a registered voter, who meets all the qualifications under the federal act, may continue to vote in federal elections for federal offices after the time permitted by Virginia's Constitution for state and local elections.

§ 24.2-405.1. **Secretary of State Board of Elections to serve as state coordinator for the administration of the National Voter Registration Act.** Designates the Secretary of the State Board of Elections as the state election official to be responsible for coordination of state responsibilities. The federal act requires each state to designate a coordinator.

§ 24.2-409.1. **State Board to transmit information pertaining to persons convicted of a felony in federal court.** Codifies an existing practice of transmitting felony conviction information to the State Board of Elections. The federal act requires the U.S. Attorney General to forward felony convictions to state officials. A felony conviction, whether state or federal, disqualifies a person from voting in Virginia, unless the person's civil rights have been restored

§ 24.2-411.1. **Office of the Department of Motor Vehicles.** Provides for voter registration at the offices of the Department of Motor Vehicles whenever a person comes in to apply for, replace, or renew a driver's license or non-driver identification card or to change an address on an existing driver's license or non-driver identification card. Other provisions establish a five-business-day transmittal time and leave the method and manner of transmittal to be determined by the State Board of Elections. Preliminary plans include establishing a central location where voter information from DMV and other designated state voter registration agencies would be keyed in for later review by the appropriate registrars. A new procedure allows a DMV change of address form, along with the original voter registration record, to serve as a request for transfer. The federal act requires that an opportunity to register to vote must be a part of an application for the state motor vehicle driver's license. The act also requires that a change of address form shall serve as the change of address for voter registration unless the registrant indicates otherwise.

§ 24.2-411.2. **Designated state voter registration agencies.** Designates, in accordance with the federal act, agencies that provide public assistance, agencies that provide state-funded programs engaged in providing services to persons with disabilities, armed forces recruitment offices, and Virginia Employment Commission offices as voter registration sites. The Virginia Employment Commission is selected to serve as the additional voter registration agency required by the federal act. All other agencies are mandatory under the act. The section clarifies that voter registration opportunities will be provided at the point-of-services within the agency. The federal act also requires the inclusion of certain data, attestation clauses, and confidentiality statements concerning declinations.

Agency personnel must provide the same assistance for voter registration as they provide for other services at the agency. Agency personnel are not to attempt to influence political preferences. Complaints regarding violations may be reported to the state election official. If the complaint remains unresolved, the aggrieved voter may bring civil suit in an appropriate federal district court. The section incorporates the requirements of the act and specifies that the State Board of Elections is authorized to cooperate with designated agencies to resolve violations. Violations are not subject to criminal penalties unless the violation involves a specific election offense covered by current state law. Because the federal act gives little guidance as to what is a public assistance agency or an agency that provides state-funded programs engaged in providing services to persons with disabilities, the section requires that the Secretary of the State Board of Elections with the Attorney General's assistance compile a list of agencies designated as voter registration sites. The list shall be available beginning October 1, 1995, and shall be updated as needed.

**§ 24.2-412. Other locations and times for voter registration.** Clarifies that additional sites for voter registration previously established by the general registrar will remain an option for registration. These sites are in addition to DMV offices and state-designated voter registration agencies.

**§ 24.2-413. Accessible registration locations.** Continues the distinction between registration locations established by the general registrar and state-designated agencies in terms of meeting the accessibility requirements of the Virginians with Disabilities Act, the Voting Accessibility for the Elderly and Handicapped Act, and the Americans with Disabilities Act. For purposes of these acts, accessibility requirements for registration locations established by the general registrar are more flexible than those for state-designated agencies.

**§ 24.2-415.1. Persons authorized to receive voter registration applications.** Clarifies that designated agency personnel are authorized to receive voter registration applications.

**§ 24.2-416.1. Voter registration by mail.** Provides for voter registration by mail.

**§ 24.2-416.2. Mail voter registration application forms.** Codifies the federal requirement that states accept the mail voter registration application form promulgated by the Federal Election Commission for registering voters for federal elections. The State Board of Elections is required to develop a comparable state mail registration form. This form will include all eligibility requirements, require the applicant to sign the form subject to penalties for making false statements, and register voters for all elections.



**§ 24.2-416.3. Distribution of mail registration application forms.** Requires the State Board to distribute a reasonable number of mail application forms to comply with the federal law requirement that election officials shall make the mail registration forms available to voting groups.

**§ 24.2-416.4. Return of mail voter registration applications.** States that registration applications returned by mail are timely if postmarked on the date the registration books are closed or, if there is no postmark, five days after the date the registration books are closed. An application is also timely if accepted by a general registrar or received by designated agency personnel by the deadline for closing the registration books.

**§ 24.2-417. Persons to be registered.** Clarifies that a person no longer needs to register in person to vote.

**§ 24.2-425. Transfer of registered voter to another county or city.** Deletes the requirement of a witness to complete a transfer application. The witness requirement was an additional safeguard provided because the transfer applications could be made by mail. The federal act prohibits requiring mail registration forms to be notarized or otherwise authenticated; therefore, it is inappropriate to continue these requirements for transfer applications.

**§ 24.2-426. Voluntary cancellation of registration.** Removes the word "active" in describing the voter registration system, since the system will contain registered voters with active and inactive status.

**§ 24.2-427. Cancellation of registration for persons known to be deceased or disqualified to vote.** Clarifies that a notice received from a registration official of another jurisdiction that the voter has moved is the equivalent of a written request from the voter for cancellation. The federal act provides that no person may be removed from the registration rolls due to a possible change of address, unless the voter confirms in writing that he has moved out of the voting jurisdiction or the voter fails to respond to a notice and does not correct the record during the period covered by two federal elections.

**§ 24.2-428. Regular periodic review of registration records; notice to voters identified as having moved; placement on inactive active status for failure to respond to notice.** Requires the State Board of Elections to establish a voter list maintenance program using the change of address information supplied by the U.S. Postal Service or by other reliable sources. In accordance with the federal act, a voter's name may no longer be removed for not voting. If information from the postal service or another reliable source indicates that the voter has moved within the general registrar's jurisdiction, the general registrar corrects the registration record, notifies the voter of change, and mails a verification return card

to the voter. The voter remains on the rolls on active status even if he does not return the verification card. If the information from the postal service indicates that the voter has moved out of the general registrar's jurisdiction, the general registrar sends a confirmation notice, explaining how the registered voter can remain registered, along with an address verification return card. Transfer provisions are made if the registered voter returns the change of address card. If the address verification return card is not returned within 30 days, the person is placed on inactive status.

**§ 24.2-428.1. Other procedures for assigning registered voters to inactive status.** Provides that an address confirmation notice shall be sent if any official voter registration or election mail is returned as undeliverable. The address confirmation notice must be sent before a registered voter can be placed on inactive status.

**§ 24.2-428.2. Return of registered voter to active status.** Provides that a registered voter may be returned to active status by verifying his address during the period beginning on the date the voter was assigned to inactive status and ending on the day of the second general election for federal office.

**§ 24.2-429. Maintenance of accurate registration records by general registrar; notice and hearing before cancellation.** Clarifies, in accordance with the federal act, that the registrar's local purge no longer applies to removal of residence from the precinct. The federal act requires a systematic program for the maintenance of accurate records. A person's name cannot be removed from the rolls unless he confirms in writing that he has moved out the registrar's jurisdiction or has been sent a confirmation notice and been provided the opportunity to correct the registration record.

**§ 24.2-431. Petition to court objecting to registration.** Clarifies, in accordance with the federal act, that three qualified voters cannot challenge a person's voter registration based solely on that person's removal of residence from the precinct. Removal procedures must follow the federal requirements.

**§ 24.2-444. Registration records open to the public.** Requires, in accordance with the federal act, that general registrars shall maintain for at least two years registration records concerning the implementation of voter list maintenance program, except as it relates to declinations and other information deemed confidential by the act.

## **B. Amendments to HB 2327 and SB 911**

During the 1995 Session, the General Assembly added an “anti-fraud” provision to the joint subcommittee’s proposal--a requirement that first-time voters who register by mail must vote in person one time before being allowed to vote absentee. This requirement does not apply to college students, overseas voters, and certain other voters entitled to vote absentee by federal law.

To address the concerns of the Governor’s Office that litigation or the new Congress could substantially revise the motor voter law, the General Assembly added provisos to halt implementation if any of the following three events occurred before January 1, 1996:

- If Congress repeals any provision of the national act, the counterpart provisions of the state law will not take effect;
- If Congress delays the effective date of any provision of the national act, the counterpart provisions of the state law will be delayed for a like period; or
- If the Commonwealth files suit and obtains an injunction against enforcement of the national act, the state law will not take effect while the Commonwealth is in court contesting the national act.

## **C. Related Legislation**

In addition to HB 2327 and SB 911, the legislature also passed a shorter, separate bill to provide for registration by mail, effective July 1, 1995. [See House Bill 2361 offered by Delegate Cunningham (Appendix H).] This bill contains provisions for registration by mail similar to provisions contained in the legislation passed to implement the national act. The short bill does not include the motor voter and agency registration features of the more comprehensive bills.

Funding for the implementation of the NVRA was also provided by the General Assembly. Appropriations included approximately \$1,000,000 to the State Board of Elections and \$300,000 to DMV to support new registration programs in accordance with HB 2327 and SB 911.

The General Assembly also proposed an additional constitutional amendment, House Joint Resolution No. 607 (Appendix I), which was introduced by Delegate Scott to address concerns raised during the subcommittee hearings regarding the desirability of an additional constitutional amendment to promote the most efficient implementation of the federal act in Virginia.

#### **D. Actions of the Governor and Litigation in Virginia**

During the session, spokesmen for the Governor asked the House Privileges and Elections Committee to postpone the July 1, 1995, effective date for registration by mail to January 1996. The General Assembly declined to do so. The Governor suggested an amendment adding a reenactment clause. Recognizing that the effect of the amendment would prevent Virginia from meeting the January 1, 1996, implementation goal, the General Assembly rejected the Governor's amendment at the veto session. The bill, as originally passed by the General Assembly, was returned to the Governor, who vetoed the measure on May 5, 1995.

On the same day that the Governor vetoed the motor voter legislation, the Attorney General of Virginia filed a complaint in the federal district court in Richmond challenging the constitutionality of the national act and asking the court to permanently block its enforcement in Virginia. The Attorney General asserted that NVRA violates the 10th Amendment and that Congress has exceeded its scope of its power under Art. I, § 4 cl. 1 of the United States Constitution, to make or alter regulations regarding the time, place and manner of holding federal elections. In addition, the Attorney General contended that the act unconstitutionally conscripts state employees to execute federal law, interfering with their performance of state duties and responsiveness to their residents, in violation of the Appointment and Guarantee Clauses of the United States Constitution. The Attorney General also argued that Virginia's requirement that a voter must have voted within a specific period of time prior to an election is a "qualification" for voting and cannot be abridged by the NVRA.

In response to Virginia's suit, the United States filed a counter claim on July 3, 1995, asking the federal district court to compel immediate implementation since the Governor's veto can be considered as unassailable evidence of Virginia's intent not to comply with NVRA. On July 6, 1995, the League of Women Voters and the Richmond Crusade for Voters filed with the court their own suits against Virginia seeking similar relief to compel immediate implementation of the act. In Virginia's reply to these arguments, the Attorney General contended that immediate implementation was contrary to the effective date provision of the act, which allows states with constitutional conflicts additional time to comply. However, the Attorney General argued that if NVRA survives constitutional challenges, Virginia would be prepared to implement a dual registration system to meet NVRA requirements by the date specified under Section 13(1) of the act.

On October 3, 1995, the United States District Court for the Eastern District of Virginia, Richmond Division heard and rejected the state's constitutional challenge to the NVRA and ruled that the effective date of the act in Virginia is

March 6, 1996. In determining the effective date of the act in Virginia, the court found that on June 23, 1994, when the FEC regulations governing the content of the mail voter registration form became effective, Virginia was in a position to use its constitutional convention process to submit to the voters on November 7, 1995, an amendment to eliminate a conflicting provision requiring disclosure of a registrant's place of birth on any voter registration form. Since Virginia could have implemented a unitary registration system on November 7, 1995, the act becomes effective 120 days after this date or March 6, 1996. In a consent order agreed to by the parties and issued October 18, 1995, the court took judicial notice of Virginia's initial step to submit a constitutional amendment to the voters by the November 1996 general election using alternative procedures provided in Article XII, § 1 of the Virginia Constitution. As agreed to by the parties, the court ordered Virginia to suspend enforcement of the conflicting constitutional provision for the period beginning on March 6, 1996, until such time as the Virginia Constitution is amended to eliminate the place of birth inquiry. Further litigation on these matters is not expected in the near future since the court dismissed the private action lawsuits as moot and the United States and Virginia agreed not to appeal the court's order. The Virginia decision to uphold the constitutionality of NVRA is consistent with other rulings rendered by federal courts in California, Illinois, and Pennsylvania, which have rejected challenges to the NVRA.

Respectfully submitted,

Delegate James M. Scott, Chairman  
Senator Joseph V. Gartlan, Jr., Vice Chairman  
Delegate Julia A. Connally  
Delegate V. Earl Dickinson  
Delegate Robert D. Orrock, Sr.\*  
Delegate John Watkins\*  
Senator Hunter B. Andrews  
Senator Benjamin J. Lambert III  
Senator Kevin G. Miller\*

### \* Dissenting Statements

**Statement of Delegate Orrock:** Although I respectfully agree with many of the ideas, I disagree with those parts that deal with mail-in voter registration and other facets that could easily lead to voter fraud.

**Statement of Delegate Watkins:** It is the feeling of this member of the General Assembly that the electoral process and registration system in Virginia are both adequate and relatively secure from fraud and that the balance between encouraging voter participation and maintaining security is of primary concern. I therefore feel that a total compliance with the Federal Motor Voter Act would only work to undermine the integrity of our current system and hence would recommend strongly against changing the Virginia system any further to conform with that federal mandate. This report though factually accurate, could be used to create undue concern that citizens who want to vote are not able to do so. I therefore dissent to discourage the misuse of this report.

**Statement of Senator Miller:** It is my concern that there will inevitably be voter fraud in as much as there are proposals in the report and legislation that create situations whereby "persons" could become registered, and in fact vote (absentee), without ever physically appearing and establishing their identity before authorized election officials. The proposed alternative points of registration would provide little in the way of additional registration opportunities for busy working people. The additional registration opportunities provided for in the proposed legislation are unduly expanded in favor of persons who are unemployed or on public assistance.

## **VI. APPENDICES**

HOUSE JOINT RESOLUTION NO. 532

*Establishing a joint subcommittee to study ways to improve the registration and electoral process and encourage voter participation.*

Agreed to by the House of Delegates, February 18, 1993

Agreed to by the Senate, February 16, 1993

WHEREAS, it is the policy of the Commonwealth to encourage voter participation, to increase the number of registered voters and the number of registered voters who vote, and to protect the registration and electoral process against fraud and abuse; and

WHEREAS, the Commonwealth has enacted numerous changes to its election laws in recent years to encourage voter participation by offering more registration times and places, providing for statewide registration, developing procedures to register to vote at motor vehicle licensing offices, and promoting efficient election day practices; and

WHEREAS, despite the Commonwealth's efforts to foster voter participation, only approximately 53 percent of Virginia's voting age population voted in the 1992 Presidential election, and approximately 64 percent of that population was registered before the 1992 Presidential election; and

WHEREAS, the residency requirements for voter registration protect against electoral fraud and are set out in the Constitution and statutes but involve problems of interpretation and application; and

WHEREAS, there is particular concern that there may be a lack of uniformity in the case-by-case application of residency requirements by voter registrars, particularly with regard to students, and that more uniformity and guidance in the application of residence rules will benefit the process; and

WHEREAS, other and more innovative approaches to increase voter turnout are being considered across the country as the states seek to remove impediments to voting and to develop more efficient registration and electoral practices; and

WHEREAS, many developments and proposals deserve scrutiny to determine if they may be adapted for use in Virginia to improve the electoral process; and

WHEREAS, such developments include (i) use of mail ballots in referendum and town elections; (ii) expansion or revision of the hours for voting at the polls; (iii) expanded opportunities to register to vote by mail, at convenient and accessible registration sites, and at times closer to the day of the election; (iv) examination of the electoral college and reforms to reflect the popular vote; and (v) other innovations in the electoral process; and

WHEREAS, the Commonwealth can profit from an examination of new programs and practices to promote greater voter participation in the electoral process and from a review of residence rules; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That a joint subcommittee be hereby established to study ways to improve the electoral process, encourage voter participation, and bring about uniform and fair application of registration and election procedures.

The joint subcommittee shall consist of nine members as follows: five members from the House to be appointed by the Speaker of the House and four members of the Senate to be appointed by the Senate Committee on Privileges and Elections.

The joint subcommittee shall be assisted in its work by the State Board of Elections and the Attorney General's Office, as it may request.

The indirect costs of this study are estimated to be \$13,675; the direct costs shall not exceed \$8,100.

The joint subcommittee shall complete its work in time to submit its findings to the Governor and the 1994 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of this study.



**HOUSE JOINT RESOLUTION NO. 488**

*Directing the joint subcommittee studying ways to improve the electoral process and encourage voter participation, created pursuant to House Joint Resolution No. 532 (1993), to include in its study an examination of ways to foster voter participation and assist voters to retain their right to vote when they move within the Commonwealth.*

Agreed to by the House of Delegates, February 25, 1993  
Agreed to by the Senate, February 23, 1993

WHEREAS, many Virginia voters move from one home to another within the Commonwealth; and

WHEREAS, unfortunately, significant numbers of Virginia citizens were unable to vote in the 1992 presidential and congressional elections because they had moved before November 1991 and had not transferred their voter registrations to their new addresses; and

WHEREAS, the Virginia Constitution requires a voter to have been a resident for 30 days in the precinct where he offers to vote and further provides that a voter may continue to vote in his old precinct only if he has moved since the last November election; and

WHEREAS, many voters who moved in October 1991 or earlier were not aware of these requirements or did not remember to transfer their voter registrations to their new residences, and this lapse is especially understandable when a voter has moved within the same county or city; and

WHEREAS, a voter who has moved within an election district continues to have interest in and knowledge of district issues and candidates, and a voter who moves within a county or city should be able to vote in county-wide or city-wide elections; and

WHEREAS, these constitutional constraints should be reevaluated, and efforts should be made to find effective ways to alert the electorate to the need to transfer registrations when moving; and

WHEREAS, notices might be provided by the Department of Motor Vehicles, the tax departments at the state and local level, the United States Postal Service, or other means; and

WHEREAS, these matters merit study to encourage voter participation and to eliminate any unnecessary obstacles to the right to vote; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the joint subcommittee studying ways to improve the electoral process and encourage voter participation, created pursuant to House Joint Resolution No. 532 (1993), include in its study an examination of ways to eliminate obstacles to voter participation and to retain valid registration for voters who move within the Commonwealth.

In addition to the costs provided for in House Joint Resolution No. 532 (1993), there shall be additional indirect costs estimated to be \$4,720 and direct costs not to exceed \$3,240.

The joint subcommittee shall complete its work in time to submit its findings to the Governor and the 1994 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

HP9154388

1 HOUSE JOINT RESOLUTION NO. 570

2 House Amendments in [ ] - February 5, 1993

3 *Requesting the State Board of Elections [ , with the assistance of the Attorney General's*  
4 *office, ] to study the meaning of the term "residence" for registration and voting*  
5 *purposes.*

6  
7 Patrons—Orrock, Dickinson, Howell, Purkey and Wilkins; Senator: Houck

8  
9 Referred to the Committee on Privileges and Elections

10  
11 WHEREAS, in order to be eligible to vote under Article II, Section 1 of the Constitution  
12 of Virginia, a prospective voter must be a resident of the Commonwealth and of the  
13 precinct where he votes; and

14 WHEREAS, residency requirements serve the purpose of identifying the voter and  
15 protecting the election process against voter fraud; and

16 WHEREAS, such provisions also afford communities protection against persons who have  
17 no intention of establishing a permanent residence in the area and therefore have little  
18 interest or opportunity to become informed voters on community needs; and

19 WHEREAS, the term "residence" has been defined in Virginia's Constitution and § 24.1-1  
20 (11) to require both domicile and a place of abode; and

21 WHEREAS, § 24.1-1 (11) also sets forth a number of factors to be considered in  
22 determining whether or not domicile has been established including (i) the applicant's  
23 expressed intent and conduct, (ii) financial independence, (iii) business pursuits, (iv),  
24 employment, (v) income status, (vi) residence for income tax purposes, (vii) marital status,  
25 (viii) leasehold sites of personal and real property, (ix) motor vehicle and other personal  
26 property registration, (x) the residence of the applicant's parents, spouse and children, and  
27 such other factors as may reasonably be deemed necessary to determine the qualification  
28 of an applicant to vote in an election district; and

29 WHEREAS, although these factors provide some guidance in determining if residence  
30 has been acquired, there is no absolute criterion for the general registrars to follow when  
31 registering persons since each case must be determined by the particular facts and  
32 circumstances available; and

33 WHEREAS, there is particular concern that this method has allowed many students  
34 attending schools and institutions of learning in Virginia to become registered although they  
35 are not actual residents of Virginia; and

36 WHEREAS, Article II, Section 4 of the Constitution of Virginia authorizes the General  
37 Assembly to establish a uniform system for the registration of voters in the Commonwealth;  
38 and

39 WHEREAS, the General Assembly has delegated to the State Board of Elections, in §  
40 24.1-19, the authority to "supervise and coordinate the work of the electoral boards and of  
41 the registrars to obtain uniformity in their practices and proceedings"; now, therefore, be it

42 RESOLVED by the House of Delegates, the Senate concurring, That the State Board of  
43 Elections [ , with the assistance of the Attorney General's office, ] be requested to study  
44 the meaning of the term "residence" for registration and voting purposes. The Board is  
45 requested to examine present laws and procedures for determining a person's residence in  
46 Virginia and to recommend appropriate clarifications and improvements in those laws and  
47 procedures to promote uniformity in voter registration.

48 The State Board shall complete its work in time to submit its findings and  
49 recommendations to the House Committee on Privileges and Elections and the Senate  
50 Committee on Privileges and Elections prior to the 1994 Session of The General Assembly.

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52  
53

## HOUSE JOINT RESOLUTION NO. 30

*Continuing the Joint Subcommittee Studying Ways to Improve the Registration and Electoral Process and Encourage Voter Participation.*

Agreed to by the House of Delegates, February 8, 1994

Agreed to by the Senate, February 28, 1994

WHEREAS, it is the policy of the Commonwealth to encourage voter participation, to increase the number of registered voters and the number of registered voters who vote, to promote the uniform application of the registration and election laws, and to protect the electoral process against fraud and abuse; and

WHEREAS, the General Assembly adopted House Joint Resolution No. 532 at the 1993 Session establishing the Joint Subcommittee Studying Ways to Improve the Registration and Electoral Process and Encourage Voter Participation; and

WHEREAS, the joint subcommittee held two meetings and conducted four regional hearings to solicit comments and proposals for election reform from the public; and

WHEREAS, registrars, local electoral board members, election analysts and representatives from the League of Women Voters and other voter participation groups responded with more than 25 proposals for election reform, including a "no reason" absentee ballot and an early voting system, later registration deadlines and poll hours, enhanced voter education programs and a proportional system of assigning the state's presidential electors; and

WHEREAS, many speakers advocated clearer standards and guidelines for determining voter residence to ensure the uniform application of the registration and election laws; and

WHEREAS, many of the comments focused on Virginia's opportunities to increase voter participation through its implementation of the National Voter Registration Act of 1993, which was passed by Congress to increase voter registration and participation among eligible citizens through motor vehicle, mail and agency registration; and

WHEREAS, many issues relating to the requirements of the National Voter Registration Act have just begun to surface and more are expected when the Federal Election Commission proposes regulations in early 1994; and

WHEREAS, the complexity, breadth, and importance of all these issues warrant further review by the joint subcommittee; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the Joint Subcommittee Studying Ways to Improve the Registration and Electoral Process and Encourage Voter Participation be continued.

The joint subcommittee shall (i) continue to review the recommendations presented at its public hearings; (ii) identify and recommend legislation needed to meet the requirements of the National Voter Registration Act; (iii) explore the options available under the National Voter Registration Act, particularly in regard to the designation of discretionary agencies as registration locations; (iv) monitor federal regulations pertaining to the Act and identify what, if any, complementary state action is necessary; (v) consider the recommendations of the State Board of Elections Task Force on the National Voter Registration Act; (vi) develop standards to promote uniformity in the administration of the registration and elections laws with particular emphasis on clarifying the term "voter residence" to ensure that eligible voters are not disenfranchised; and (vii) address other related issues to encourage voter participation and streamline election procedures in Virginia.

The membership of the joint subcommittee shall remain the same, with any vacancy to be filled in the same manner as the original appointment.

The State Board of Elections shall provide technical assistance and all other agencies of the Commonwealth shall provide assistance upon request as may be deemed appropriate by the joint subcommittee.

The joint subcommittee shall complete its work in time to submit its findings and recommendations to the Governor and the 1995 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

The direct costs of this study shall not exceed \$8,100.

Implementation of this resolution is subject to subsequent approval and certification by the Joint Rules Committee. The Committee may withhold expenditures or delay the period for the conduct of the study.

HOUSE JOINT RESOLUTION NO. 29

*Requesting the State Board of Elections Task Force studying the National Voter Registration Act to assist the joint subcommittee studying ways to improve the registration and electoral process and increase voter participation.*

Agreed to by the House of Delegates, February 3, 1994

Agreed to by the Senate, March 3, 1994

WHEREAS, the National Voter Registration Act, signed by the President of the United States on May 20, 1993, is designed to increase voter registration and participation among eligible citizens; and

WHEREAS, the major provisions of the act, applicable to federal elections, provide for motor vehicle registration, agency registration, mail registration, record keeping and reporting requirements, and administrative procedures for the removal of ineligible voters from the voting rolls; and

WHEREAS, the 1993 Session of the General Assembly took the initial step in conforming Virginia's registration procedures for state and local elections to the new federal law by proposing a constitutional amendment to delete the in person requirement for voter registration as well as for the requirement for the automatic purge of nonvoters; and

WHEREAS, many registration procedures will be implemented for the first time in Virginia, by 1996, when the act becomes effective; and

WHEREAS, the State Board of Elections has established an interagency task force to develop and coordinate implementation plans; and

WHEREAS, the Task Force's initial focus has been on the technical aspects of compliance including identification of affected agencies, transmission methods, forms development and production, training, administrative procedures and fulfillment of record keeping requirements; and

WHEREAS, the joint subcommittee studying the ways to improve the registration and electoral process and increase voter participation, created pursuant to House Joint Resolution No. 532 (1993), has begun to identify options available to Virginia to meet the requirements of the act for federal elections and to expand voter registration opportunities for state and local elections; and

WHEREAS, many of these options are very complex and best suited for examination in a task force environment; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the State Board of Elections Task Force studying the National Voter Registration Act be requested to assist the joint subcommittee studying ways to improve the registration and electoral process and increase voter participation. The Task Force is specifically requested to (i) examine what discretionary agencies in the Commonwealth should be designated as voter registration locations in order to meet the requirements of the National Voter Registration Act; (ii) review current registration and election laws to determine what modifications are needed to comply with the act and what, if any, steps are appropriate for the expansion of the voter registration opportunities beyond the mandate; (iii) determine ways to promote the uniform application of Virginia's registration and election laws and procedures, with emphasis on developing standards to adequately define voter residence; and (iv) examine other related issues requested by the joint subcommittee.

The Task Force shall complete its work in time to submit its findings and recommendations to the joint subcommittee which shall incorporate such findings and recommendations in its report to the Governor and the 1995 Session of the General Assembly as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents.

## VIRGINIA ACTS OF ASSEMBLY - CHAPTER 991

## HOUSE JOINT RESOLUTION NO. 395

*Proposing amendments to Sections 2, 3, and 4 of Article II of the Constitution of Virginia, relating to voter registration, voting, and powers and duties of the General Assembly concerning voter registration and elections.*

Agreed to by the House of Delegates, February 23, 1993

Agreed to by the Senate, February 19, 1993

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendments to the Constitution of Virginia be, and the same hereby are, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Sections 2, 3, and 4 of Article II of the Constitution of Virginia as follows:

ARTICLE II  
FRANCHISE AND OFFICERS

Section 2. Registration of voters.

The General Assembly shall provide by law for the registration of all persons otherwise qualified to vote who have met the residence requirements contained in this article, and shall ensure that the opportunity to register is made available. Registrations accomplished prior to the effective date of this section shall be effective hereunder. The registration records shall not be closed to new or transferred registrations more than thirty days before the election in which they are to be used.

Applications to register shall require the applicant to provide ~~under oath~~ the following information on a standard form: full name, including the maiden and any other prior legal name; age; date and place of birth; social security number, if any; whether the applicant is presently a United States citizen; address and place of abode and date of residence in the precinct; place of any previous registrations to vote; and whether the applicant has ever been adjudicated to be mentally incompetent or convicted of a felony, and if so, under what circumstances the applicant's right to vote has been restored. ~~Except as otherwise provided in this Constitution,~~ All applications to register shall be completed in person before the registrar and by or at the direction of the applicant and signed by the applicant, unless physically disabled. No fee shall be charged to the applicant incident to an application to register.

Nothing in this article shall preclude the General Assembly from requiring as a prerequisite to registration to vote the ability of the applicant to read and complete in his own handwriting the application to register.

Section 3. Method of voting.

In elections by the people, the following safeguards shall be maintained. Voting shall be by ballot or by machines for receiving, recording, and counting votes cast. No ballot or list of candidates upon any voting machine shall bear any distinguishing mark or symbol, other than words identifying political party affiliation; and their form, including the offices to be filled and the listing of candidates or nominees, shall be as uniform as is practicable throughout the Commonwealth or smaller governmental unit in which the election is held.

In elections other than primary elections, provision shall be made whereby votes may be cast for persons other than the listed candidates or nominees. Secrecy in casting votes shall be maintained, except as provision may be made for assistance to handicapped voters, but the ballot box or voting machine shall be kept in public view and shall not be opened, nor the ballots canvassed nor the votes counted, in secret. Votes may be cast ~~only~~ in person; ~~except as otherwise provided in this article or by absentee ballot as provided by law.~~

Section 4. Powers and duties of General Assembly.

The General Assembly shall establish a uniform system for permanent registration of voters pursuant to this Constitution, including provisions for appeal by any person denied registration, correction of illegal or fraudulent registrations, *penalties for illegal, fraudulent, or false registrations*, proper transfer of all registered voters, and cancellation of registrations in other jurisdictions of persons who apply to register to vote in the Commonwealth. The General Assembly shall provide for maintenance of accurate and current registration records and ~~shall~~ *may* provide for the cancellation of the ~~registration~~ *registrations for such purpose* of any voter who has not voted at least once during four consecutive calendar years and who fails to return a written response indicating a desire to remain registered at the residence address currently on record in response to a notice of

pending cancellation .

The General Assembly may provide for registration and voting by absentee application and ballot for members of the Armed Forces of the United States in active service, persons residing temporarily outside of the United States by virtue of their employment, and their spouses and dependents residing with such persons, who are otherwise qualified to vote, and may provide for voting by absentee ballot for other qualified voters.

The General Assembly shall provide for the nomination of candidates, shall regulate the time, place, manner, conduct, and administration of primary, general, and special elections, and shall have power to make any other law regulating elections not inconsistent with this Constitution.

Senate Bill 911 is identical to  
House Bill 2327 as set forth  
in this appendix.

LD2371443

HOUSE BILL NO. 2327

Offered January 23, 1995

A BILL to amend and reenact §§ 24.2-101, 24.2-114, 24.2-401, 24.2-412, 24.2-413, 24.2-417, 24.2-425, 24.2-426, 24.2-427, 24.2-428, 24.2-429, 24.2-431, and 24.2-444 of the Code of Virginia; to amend the Code of Virginia by adding in Title 24.2 an article numbered 3.1, containing sections numbered 24.2-416.1 through 24.2-416.4, and to amend the Code of Virginia by adding sections numbered 24.2-405.1, 24.2-409.1, 24.2-411.1, 24.2-411.2, 24.2-415.1, 24.2-428.1, and 24.2-428.2; relating to the implementation of the National Voter Registration Act (42 U.S.C. §.1973gg et seq.).

Patrons—Scott, Armstrong, Cohen, Connally, Crittenden, Croshaw, Cunningham, Darner, Deeds, Dickinson, Grayson, Hull, Jones, D.C., Jones, J.C., Mayer, Orrock, Plum, Puller, Robinson, Shuler, Van LANDINGHAM and Van YAHRES; Senators: Gartlan, Howell and Lambert

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-101, 24.2-114, 24.2-401, 24.2-412, 24.2-413, 24.2-417, 24.2-425, 24.2-426, 24.2-427, 24.2-428, 24.2-429, 24.2-431, and 24.2-444 of the Code of Virginia are amended and reenacted, the Code of Virginia is amended by adding in Title 24.2 an article numbered 3.1 containing sections numbered 24.2-416.1 through 24.2-416.4, and the Code of Virginia is amended by adding sections numbered 24.2-405.1, 24.2-409.1, 24.2-411.1, 24.2-411.2, 24.2-415.1, 24.2-428.1, and 24.2-428.2 as follows:

§ 24.2-101. Definitions.

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

“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.) and 9 (§ 24.2-900 et seq.) of this title, “candidate” shall include any write-in candidate.

“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 office” or “constitutional officer” means a county or city office 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.

“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.

“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.

“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.

“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 ten percent of the total vote cast for any statewide office filled in that election. The organization shall have a state central

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1 committee and an office of elected state chairman which have been continually in existence for the  
2 six months preceding the filing of a nominee for any office.

3 "Polling place" means the one place provided for each precinct at which the qualified voters who  
4 are residents of the precinct may vote.

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

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

9 "Qualified voter" means a person who is entitled to vote pursuant to the Constitution of Virginia  
10 and who is (i) eighteen years of age, (ii) a resident of the Commonwealth and of the precinct in  
11 which he offers to vote, and (iii) registered to vote. No person who has been convicted of a felony  
12 shall be a qualified voter unless his civil rights have been restored by the Governor or other  
13 appropriate authority. No person adjudicated to be mentally incompetent shall be a qualified voter  
14 unless his competency has been reestablished as provided by law.

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

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

20 "Registered voter" means any person who is maintained on the Virginia voter registration system.

21 All registered voters shall be maintained on the Virginia voter registration system with active status  
22 unless assigned to inactive status by a general registrar in accordance with Chapter 4 (§ 24.2-400 et  
23 seq.) of this title. For purposes of determining the number of signatures required for candidate and  
24 voter petitions and calculating election machine requirements pursuant to Article 3 (§ 24.2-625 et  
25 seq.) of Chapter 6 of this title, "registered voter" shall include only persons maintained on the  
26 Virginia voter registration system with active status.

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

30 "Residence" or "resident," for all purposes of qualification to register and vote, means and requires  
31 both domicile and a place of abode. In determining domicile, consideration may be given to a  
32 person's expressed intent, conduct, and all attendant circumstances including, but not limited to,  
33 financial independence, business pursuits, employment, income sources, residence for income tax  
34 purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of personal  
35 and real property owned by the person, motor vehicle and other personal property registration, and  
36 other factors reasonably necessary to determine the qualification of a person to register or vote.

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

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

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

43 § 24.2-114. Duties and powers of general registrar.

44 In addition to the other duties required by this title, the general registrar, and the assistant registrars  
45 acting under his supervision, shall:

46 1. Maintain the office of the general registrar and establish and maintain additional public places  
47 for voter registration in accordance with the provisions of ~~Article 4 (§ 24.2-114 et seq.) of Chapter 4~~  
48 ~~of this title, § 24.2-412~~ and participate in programs to educate the general public concerning  
49 registration and encourage registration by the general public. No registrar shall actively solicit, in a  
50 selective manner, any application for registration or for a ballot or offer anything of value for any  
51 such application.

52 2. Perform his duties within the county or city he was appointed to serve, except that a registrar  
53 may go into a county or city in the Commonwealth contiguous to his county or city to register voters  
54 of his county or city when conducting registration jointly with the registrar of the contiguous county



1 or city.

2 3. Provide the appropriate forms for applications to register and to obtain the information  
3 necessary to complete the applications pursuant to the provisions of the Constitution of Virginia and  
4 general law.

5 4. Accept a registration application submitted ~~in person~~ by *or for* a resident of any other county or  
6 city in the Commonwealth. Registrars shall process registration applications from residents of other  
7 counties and cities in accordance with written instructions from the State Board and shall forward the  
8 completed application to the registrar of the applicant's residence ~~within twenty-four hours by hand~~  
9 ~~or first-class mail~~ *The Notwithstanding the provisions of § 24.2-416, the registrar of the applicant's*  
10 *residence shall accept recognize as timely any application submitted to any person authorized to*  
11 *receive voter registration applications pursuant to Chapter 4 (§ 24.2-400 et seq.) of this title, prior to*  
12 *or on the final day of registration. The registrar of the applicant's residence shall determine the*  
13 *qualification of the applicant, and promptly notify the applicant at the address shown on the*  
14 *application of the acceptance or denial of his registration.*

15 5. Preserve order at and in the vicinity of the place of registration. For this purpose, the registrar  
16 shall be vested with the powers of a conservator of the peace while engaged in the duties imposed by  
17 law. He may exclude from the place of registration persons whose presence disturbs the registration  
18 process. He may appoint special officers, not exceeding three in number, for a place of registration  
19 and may summon persons in the vicinity to assist whenever, in his judgment, it is necessary to  
20 preserve order. The general registrar and any assistant registrar shall be authorized to administer oaths  
21 for purposes of this title.

22 6. Maintain the official registration records for his county or city in the system approved by, and  
23 in accordance with the instructions of, the State Board; preserve the written applications of all persons  
24 who are registered; and preserve for a period of four years the written applications of all persons who  
25 are denied registration or whose registration is cancelled.

26 7. If a person is denied registration, promptly notify such person in writing of the denial and the  
27 reason for denial in accordance with § 24.2-422.

28 8. Verify the accuracy of the separate precinct registered voter lists provided for each election by  
29 the State Board, make the lists available to the precincts, and return the lists to the State Board after  
30 each election for voting credit purposes.

31 9. After the return of the precinct registered voter lists by the State Board, retain the lists in his  
32 principal office for four years.

33 10. Maintain accurate and current registration records and comply with the requirements of this  
34 title for the transfer, *inactivation*, and cancellation of voter registrations.

35 11. Whenever election districts, precincts, or polling places are altered, provide for entry into the  
36 voter registration system of the proper district and precinct designations for each registered voter  
37 whose districts or precinct have changed and notify each affected voter of changes affecting his  
38 districts or polling place by mail.

39 12. Whenever any part of his county or city becomes part of another jurisdiction by annexation,  
40 merger, or other means, transfer to the appropriate general registrar the registration records of the  
41 affected registered voters. The general registrar for their new county or city shall notify them by mail  
42 of the transfer and their new election districts and polling places.

43 13. When he registers any person who was previously registered in another state, notify the  
44 appropriate authority in that state of the person's registration in Virginia.

45 14. At the request of the county or city chairman of any political party nominating a candidate for  
46 the General Assembly, constitutional office, or local office by a method other than a primary, review  
47 any petition required by the party in its nomination process to determine whether those signing the  
48 petition are registered voters *with active status*.

49 15. Carry out such other duties as prescribed by the electoral board.

50 § 24.2-401. Persons moving from precinct.

51 A person who is qualified to vote except for having moved his residence from one precinct to  
52 another within the Commonwealth may vote in the precinct from which he has moved in the  
53 following November general election and any intervening election unless his registration has been  
54 transferred or cancelled as provided in this chapter. *Such person may continue to vote in the precinct*

1 from which he has moved, for federal offices only, through the second general and intervening  
 2 elections for federal office, provided that (i) he has moved his residence from one precinct to another  
 3 in the same registrar's jurisdiction and the same congressional district; (ii) he has failed to respond  
 4 to the notice provide in § 24.2-428; (iii) his registration has not been transferred or cancelled as  
 5 provided in this chapter; and (iv) he has affirmed orally or in writing his new address before an  
 6 officer of election at the polling place.

7 § 24.2-405.1. Secretary of State Board of Elections to serve as state coordinator for the  
 8 administration of the National Voter Registration Act.

9 The Secretary of the State Board of Elections shall be the chief state election officer responsible  
 10 for the coordination of state responsibilities under the National Voter Registration Act (42 U.S.C.  
 11 § 1973gg et seq.).

12 § 24.2-409.1. State Board to transmit information pertaining to persons convicted of a felony in  
 13 federal court.

14 Upon receipt of a notice of a felony conviction sent by a United States Attorney pursuant to the  
 15 National Voter Registration Act (42 U.S.C. § 1973gg et seq.), the State Board shall notify the  
 16 appropriate general registrar of the conviction.

17 § 24.2-411.1. Offices of the Department of Motor Vehicles.

18 A. The Department of Motor Vehicles shall provide the opportunity to register to vote to each  
 19 person who comes to an office of the Department to:

- 20 1. Apply for, replace, or renew a driver's license;
- 21 2. Apply for, replace, or renew a special identification card; or
- 22 3. Change an address on existing driver's license or special identification card.

23 B. The method used to receive an application for voter registration shall avoid duplication of the  
 24 license portion of the license application and require only the minimum additional information  
 25 necessary to enable registrars to determine the voter eligibility of the applicant and to administer  
 26 voter registration and election laws. A person who does not sign the registration portion of the  
 27 application shall be deemed to have declined to register at that time. The voter application shall  
 28 include a statement that if an applicant declines to register to vote the fact the applicant has declined  
 29 to register will remain confidential and will be used only for voter registration purposes. Any  
 30 completed application for voter registration submitted by a person who is already registered shall  
 31 serve as a written request to update his registration record. Any change of address form submitted  
 32 for purposes of a motor vehicle driver's license or special identification card shall serve as  
 33 notification of change of address for voter registration for the registrant involved unless the registrant  
 34 states on the form that the change of address is not for voter registration purposes. If the information  
 35 from the notification of change of address for voter registration indicates that the registered voter has  
 36 moved to another general registrar's jurisdiction within the Commonwealth, the notification shall be  
 37 treated as a request for transfer from the registered voter. The notification and the registered voters'  
 38 registration record shall be transmitted as directed by the State Board of Elections to the appropriate  
 39 general registrar who shall send a confirmation notice of the transfer to the voter pursuant to  
 40 § 24.2-425.

41 C. A completed voter registration portion of the application shall be transmitted as directed by the  
 42 State Board not later than five business days after the date of receipt.

43 D. The Department of Motor Vehicles shall maintain such statistical records on the number of  
 44 applications to register to vote as requested by the State Board.

45 § 24.2-411.2. Designated state voter registration agencies.

46 A. The following agencies are designated as voter registration agencies in compliance with the  
 47 National Voter Registration Act (42 U.S.C. § 1973gg et seq.) and shall provide voter registration  
 48 opportunities at their state, regional, or local offices, depending upon the point of service:

- 49 1. Agencies that provide benefits under the Aid to Families with Dependent Children, Special  
 50 Supplemental Food Program for Women, Infants, and Children, Medicaid, or Food Stamps program;
- 51 2. Armed Forces recruitment offices;
- 52 3. Agencies whose primary function is to provide public assistance;
- 53 4. Agencies whose primary function is to provide state-funded programs primarily engaged in  
 54 providing services to persons with disabilities; and

1 5. *The Virginia Employment Commission:*

2 B. *The Secretary of the State Board of Elections, with the assistance of the Office of Attorney*  
3 *General shall compile and maintain a list of the specific agencies covered by subdivisions 3 and 4 of*  
4 *subsection A, which, in the legal opinion of the Attorney General, must be designated to meet the*  
5 *requirements of the National Voter Registration Act (42 U.S.C. § 1973gg et seq.). The Secretary of*  
6 *the State Board of Elections shall notify these agencies prior to October 1, 1995, of their designation*  
7 *and thereafter notify any agency added to or deleted from the list.*

8 C. *At each voter registration agency, the following services shall be made available:*

9 1. *Distribution of mail voter registration forms provided by the State Board of Elections;*

10 2. *Assistance to applicants in completing voter registration application forms, unless the applicant*  
11 *refuses assistance; and*

12 3. *Receipt of completed voter registration application forms.*

13 D. *A voter registration agency, which provides service or assistance in conducting voter*  
14 *registration, shall:*

15 1. *Distribute with each application for its service or assistance, or upon admission to a facility or*  
16 *program, and with each recertification, readmission, renewal, or change of address form, a voter*  
17 *registration application prescribed by the State Board of Elections that complies with the*  
18 *requirements of the National Voter Registration Act (42 U.S.C. § 1973gg et seq.).*

19 2. *Provide, as part of the voter registration application, a form that includes:*

20 a. *The question "If you are not registered to vote where you live now, would you like to apply to*  
21 *register to vote here today?";*

22 b. *If the agency provides public assistance, the statement, "Applying to register or declining to*  
23 *register to vote will not affect the amount of assistance that you will be provided by this agency.";*

24 c. *Boxes for the applicant to check to indicate whether the applicant would like to register,*  
25 *declines to register to vote, or is already registered (failure to check any box being deemed to*  
26 *constitute a declination to register for purposes of subdivision 2a of this section), together with the*  
27 *statement (in close proximity to the boxes and in prominent type) "IF YOU DO NOT CHECK ANY*  
28 *BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS*  
29 *TIME.";*

30 d. *The statement, "If you would like help in filling out the voter registration application form, we*  
31 *will help you. The decision whether to seek help or accept help is yours. You may fill out the*  
32 *application form in private."; and*

33 e. *The statement, "If you believe that someone has interfered with your right to register or to*  
34 *decline to register to vote, your right to privacy in deciding whether to register or in applying to*  
35 *register to vote, you may file a complaint with the State Board of Elections." The statement shall*  
36 *include the address and telephone number of the State Board.*

37 3. *Provide to each applicant who does not decline to register to vote the same degree of*  
38 *assistance with regard to the completion of the voter registration application as is provided by the*  
39 *office with regard to the completion of its own applications, unless the applicant refuses assistance.*

40 E. *If a voter registration agency designated under subsection A of this section provides services to*  
41 *a person with a disability at the person's home, the agency shall provide the voter registration*  
42 *services as provided for in this section.*

43 F. *A person who provides services at a designated voter registration agency shall not:*

44 1. *Seek to influence an applicant's political preference;*

45 2. *Display any material indicating the person's political preference or party allegiance; or*

46 3. *Make any statement to an applicant or take any action the purpose or effect of which is to lead*  
47 *the applicant to believe that a decision to register or not to register has any bearing on the*  
48 *availability of services or benefits.*

49 *Any person who is aggrieved by a violation of this subsection may provide written notice of the*  
50 *violation to the State Board of Elections. The Board shall be authorized to cooperate with the agency*  
51 *to resolve the alleged violation. Nothing contained in this subsection shall prohibit an aggrieved*  
52 *person from filing a complaint in accordance with § 24.2-1019 against a person who commits any*  
53 *election law offense enumerated in Chapter 10 of this title, except for violations provided for in*  
54 *§ 24.2-1017.*

1 G. A completed voter registration application shall be transmitted as directed by the State Board  
2 of Elections not later than five business days after the date of receipt.

3 H. Each state designated voter registration agency shall maintain such statistical records on the  
4 number of applications and declinations to register to vote as requested by the State Board of  
5 Elections.

6 § 24.2-412. Other locations and times for voter registration.

7 A. ~~Opportunities~~ In addition to voter registration locations provided for in §§ 24.2-411 through  
8 24.2-411.2, opportunities for voter registration may be provided at other agency offices, business  
9 offices, ~~other~~ establishments and occasional sites open to the general public, and shall be provided as  
10 required by this section. Voter registration shall be conducted only in public places open to the  
11 general public and at preannounced hours. Assistant registrars should serve during such hours and at  
12 such places. The conduct of voter registration by the general registrar or an assistant registrar in  
13 public places at preannounced hours shall not be deemed solicitation of registration.

14 B. The general registrar is authorized to set within his jurisdiction ongoing locations and times for  
15 registration in local or state government agency offices or in businesses or other establishments open  
16 to the general public, subject to the approval of, and pursuant to an agreement with, the head of the  
17 government agency, the owner or manager of the business or establishment, or the designee of either.  
18 The agreement shall provide for the appointment of employees of the agency, business, or  
19 establishment to serve as assistant registrars and shall be in writing and approved by the local  
20 electoral board prior to implementation.

21 Employees of the agency, business, or establishment who are appointed to serve as assistant  
22 registrars may be nonresidents of the jurisdiction they are appointed to serve, provided that (i) they  
23 are qualified voters of the Commonwealth and (ii) they serve only at their place of employment  
24 within the jurisdiction they are appointed to serve.

25 C. The general registrar or electoral board may set additional occasional sites and times for  
26 registration within the jurisdiction. A multi-family residential building not usually open to the public  
27 may be used as an occasional registration site so long as the public has free access to the site during  
28 the time for registering voters.

29 D. The general registrar in each county or city shall designate registration locations, in addition to  
30 the general registrar's principal office, for registration at one or more times within the forty days  
31 immediately preceding the final day of registration prior to each November general election. He shall  
32 designate at least one location for each 5,000 of population in his county or city, but shall not be  
33 required to designate more than twenty locations for the purposes of this subsection. These locations  
34 shall be geographically dispersed throughout the county or city. Times for registration at these  
35 locations shall be scheduled, to the extent possible, after five o'clock p.m. or on weekends. Each  
36 general registrar shall file with the State Board by the immediately preceding August 15, the plans for  
37 these designated locations and the hours each location will be open.

38 § 24.2-413. Accessible registration locations.

39 The office of the general registrar, and each agency, business, and establishment set for  
40 registration pursuant to §§ 24.2-411.1, 24.2-411.2 and 24.2-412 B shall be accessible as required by the  
41 provisions of the Virginians with Disabilities Act (§ 51.5-1 et seq.), the Voting Accessibility for the  
42 Elderly and Handicapped Act (42 U.S.C. § 1973ee et seq.), and the Americans with Disabilities Act  
43 relating to public services (42 U.S.C. § 12131 et seq.). The State Board shall provide instructions to  
44 the Department of Motor Vehicles, state designated voter registration agencies, the local electoral  
45 boards and general registrars to assist them in complying with the requirements of the Acts.

46 In the selection of additional registration sites as provided in § 24.2-412, consideration shall be  
47 given to accessibility so that a reasonable number of accessible sites are provided and the  
48 requirements of the above cited Acts are met.

49 § 24.2-415.1 Persons authorized to receive voter registration applications.

50 A. Any designated employee of an office of the Department of Motor Vehicles, state designated  
51 voter registration agency, or Armed Services recruitment office shall be authorized to receive a voter  
52 registration application when hand delivered by the applicant during the hours that the office is open.

53 B. The registration date for a valid voter registration application that has been hand delivered is  
54 the date when received by any general registrar or any person authorized to receive voter

1 registration applications pursuant to subsection A of this section.

2 Article 3.1.

3 Mail Registration.

4 § 24.2-416.1. Voter registration by mail.

5 A person may apply to register to vote by mail by completing and returning a mail voter  
6 registration form in the manner and time provided by law.

7 § 24.2-416.2. Mail Voter Registration Application Forms.

8 Notwithstanding the provisions of § 24.2-418, the national mail voter registration application form  
9 promulgated by the Federal Election Commission pursuant to the National Voter Registration Act (42  
10 U.S.C. § 1973gg et seq.) shall be accepted for the registration of otherwise qualified voters to vote in  
11 federal elections for federal offices. In addition to the national voter registration application form  
12 promulgated by the Federal Election Commission, the State Board of Elections shall design and  
13 distribute a state mail registration application form. Such state form shall include the eligibility  
14 requirements for registration as provided in this title and shall require each applicant to provide the  
15 information required subject to felony penalties for making false statements pursuant to § 24.2-1016.

16 § 24.2-416.3. Distribution of mail registration application forms.

17 The State Board of Elections shall make available to any individual or group a reasonable  
18 number of mail voter registration application forms.

19 § 24.2-416.4. Return of mail voter registration applications.

20 A. Notwithstanding the provisions of § 24.2-416, a mail voter registration application returned  
21 through the United States Postal Service shall be deemed to have been made as of the date of the  
22 postmark affixed to such application by the United States Postal Service. If no such postmark is  
23 affixed or if the postmark affixed by the United States Postal Service is illegible or bears no date,  
24 such application shall be deemed to have been timely if received through the United States mail no  
25 later than five days following the time for the closing of the registration books pursuant to §  
26 24.2-416.

27 B. In any other case, a completed mail voter registration application form shall be deemed timely  
28 if received by any general registrar or any person authorized to receive voter registration  
29 applications pursuant to § 24.2-415.1, by the deadline provided for in § 24.2-416 for closing the  
30 registration books.

31 § 24.2-417. Persons to be registered.

32 Each registrar shall register every resident of his county or city who has the qualifications required  
33 by the Constitution of Virginia and this title and who applies for registration ~~in person, or by absentee~~  
34 ~~application as set forth in § 24.2-419~~, at the time and in the manner required by law.

35 Any person, once properly registered, shall remain registered unless his registration is cancelled  
36 pursuant to Article 5 (§ 24.2-426 et seq.) of this chapter.

37 § 24.2-425. Transfer of registered voter to another county or city.

38 Whenever a registered voter changes his place of residence from one county or city to another in  
39 the Commonwealth, he may appear in person before a general registrar to request transfer of his  
40 registration and provide, subject to felony penalties for making false statements pursuant to  
41 § 24.2-1016, all pertinent information required by § 24.2-418 for registration.

42 A request for transfer may be made by mail ~~on a form prescribed by the State Board~~ in which  
43 case the application for transfer shall be signed by the voter and subject to felony penalties for  
44 making false statements pursuant to § 24.2-1016. ~~His signature shall be witnessed by one person who~~  
45 ~~shall sign the application, provide his full name and address, and state he is age eighteen or older.~~

46 If the general registrar of the voter's new residence is satisfied that the voter has met the  
47 requirements to be registered, the voter's registration shall be transferred and a new voter registration  
48 card issued to him. A transfer may be entered in the registration records at any time the registration  
49 records are not closed pursuant to § 24.2-416.

50 § 24.2-426. Voluntary cancellation of registration.

51 Any registered voter may cancel his registration and have his name removed from the active  
52 central registration records by signing in person at the office of the general registrar an authorization  
53 for cancellation on a form prescribed by the State Board.

54 § 24.2-427. Cancellation of registration for persons known to be deceased or disqualified to vote.

1 The general registrar shall cancel the registration of (i) all persons known by him to be deceased  
 2 or disqualified to vote by reason of a felony conviction or adjudication of mental incompetency and  
 3 (ii) all persons for whom a notice has been received, signed by the voter or the registration official of  
 4 another jurisdiction, that the voter has moved from the county or city. *The notice received in*  
 5 *subdivision (ii) shall be considered as a written request from the voter to have his registration*  
 6 *cancelled.* A voter's registration may be cancelled at any time during the year in which the general  
 7 registrar discovers that the person is no longer entitled to be registered.

8 § 24.2-428. Regular periodic review of registration records; notice to voters identified as having  
 9 moved; placement on inactive active status for failure to respond to notice.

10 A. The State Board shall ~~mail annually to each registered voter who has not voted at least once~~  
 11 ~~during four consecutive calendar years a notice, sent to his address on the registration records, that his~~  
 12 ~~registration will be cancelled if he does not affirm on an enclosed registration extension application~~  
 13 ~~that he continues to reside at the address shown on the enclosed form and desires to remain~~  
 14 ~~registered; establish a voter list maintenance program using the change of address information~~  
 15 ~~supplied by the United States Postal Service through its licensees or by other reliable sources to~~  
 16 ~~identify voters whose addresses may have changed. Any such program shall be regular and periodic~~  
 17 ~~and shall be conducted at least annually. The program shall be completed, not later than ninety days~~  
 18 ~~prior to the date of a federal primary or federal general election.~~

19 B. *If it appears from information provided by the postal service or by other reliable sources that a*  
 20 *voter has moved to a different address in the same county or city in which the voter is currently*  
 21 *registered, the State Board of Elections shall provide to the general registrar the information*  
 22 *necessary to change the registration records to show the new address and the general registrar shall*  
 23 *send to the new address of the voter by forwardable mail, a notice of the change, along with a*  
 24 *postage prepaid, pre-addressed return card by which the voter may verify or correct the address*  
 25 *information.*

26 C. *If it appears from information provided by the postal service or by other reliable sources that a*  
 27 *voter has moved to a different address not in the same county or city, the general registrar shall send*  
 28 *to the last known address of the voter by forwardable mail, a notice on a form prescribed by the*  
 29 *State Board, along with a postage prepaid and pre-addressed return card on which the voter may*  
 30 *state his current address.*

31 D. The registered voter shall complete and sign the ~~application return card~~ subject to felony  
 32 penalties for making false statements pursuant to § 24.2-1016. ~~His signature shall be witnessed by one~~  
 33 ~~person who shall also sign the form. The returned form must be postmarked no later than January 15~~  
 34 ~~in order for the voter to remain registered. Any registered voter who returns the signed application~~  
 35 ~~form shall remain registered as long as he votes at least once in the four consecutive years following~~  
 36 ~~the mailing of the notice and is not otherwise disqualified to vote. The registration of any voter who~~  
 37 ~~does not return the form shall be cancelled. Failure~~

38 E. *The general registrar shall correct his registration records from the information obtained from*  
 39 *the return card. If the information indicates that the registered voter has moved to another general*  
 40 *registrar's jurisdiction within the Commonwealth, the general registrar shall transfer the registration*  
 41 *record, along with the return card to the appropriate general registrar who shall treat the request for*  
 42 *a change of address as a request for transfer and shall send a confirmation notice to the voter*  
 43 *pursuant to § 24.2-425. If the general registrar does not receive the return card provided for in*  
 44 *subsection C of this section within thirty days after it is sent to the voter, the registered voter's name*  
 45 *shall be placed on inactive status. A registered voter's failure to receive the notice shall not affect*  
 46 *the validity of the cancellation*

47 ~~The notice of intent to cancel shall be mailed by first class postage "Do Not Forward" by the~~  
 48 ~~State Board prior to December 31 in each calendar year. All returned forms for requests to remain~~  
 49 ~~registered shall be forwarded to the general registrars by the State Board~~

50 The general registrar shall ~~post at the courthouse or have published in a newspaper of general~~  
 51 ~~circulation in his county or city a list of names of persons whose registration has been cancelled~~  
 52 ~~pursuant to this section. He shall deliver or mail, obtaining a certificate of mailing, a certified copy of~~  
 53 ~~the list to the chairman of each political party in his county or city inactivation.~~

54 § 24.2-428.1. *Other procedures for assigning registered voters to inactive status.*

1     *In addition to the voter list maintenance program provided for in § 24.2-428, the general registrar*  
2 *and registered voter shall follow the confirmation notification procedures set forth in subsections C*  
3 *through E of § 24.2-428, if any of the following documents sent to the registered voter are returned*  
4 *by the postal service as undeliverable:*

- 5     1. *An acknowledgment of registration;*
- 6     2. *An acknowledgment of transfer to a new address;*
- 7     3. *An absentee ballot or application for an absentee ballot sent or provided in accordance with*  
8 *Chapter 7 of this title;*
- 9     4. *Notification to a voter after a precinct reassignment;*
- 10    5. *Notification of a change of address sent to a voter in accordance with subsection B of*  
11 *§ 24.2-428; or*
- 12    6. *Any official voter registration or election mail.*

13     § 24.2-428.2. *Return of registered voter to active status.*

14     *A registered voter shall be returned to active status from inactive status if, during the period*  
15 *beginning on the date the voter was assigned to inactive status and ending on the day of the second*  
16 *general election for federal office thereafter, the voter:*

- 17     1. *Notifies the general registrar of a change of address within the county or city;*
- 18     2. *Responds to a confirmation notice with information that the voter continues to reside at the*  
19 *registration address;*
- 20     3. *Votes or attempts to vote in a primary or a special or general election and, if necessary,*  
21 *corrects the registration record; or*
- 22     4. *Transfers his registration to another county or city within the Commonwealth, pursuant to*  
23 *§ 24.2-425 or subsection E of § 24.2-428.*

24     *If the registered voter fails to take such action on or before the day of the second general election*  
25 *for federal office after the voter was placed on inactive status, the general registrar shall cancel the*  
26 *person's voter registration.*

27     *The general registrar shall post at the courthouse or have published in a newspaper of general*  
28 *circulation in his county or city a list of names of persons whose registration has been cancelled*  
29 *pursuant to this section. He shall deliver or mail, obtaining a certificate of mailing, a certified copy*  
30 *of the list to the chairman of each political party in his county or city.*

31     § 24.2-429. *Maintenance of accurate registration records by general registrar; notice and hearing*  
32 *before cancellation.*

33     *Whenever a registered voter is alleged to be improperly registered, except for reason of removal of*  
34 *residence from the precinct, either by the general registrar or by any three qualified voters of the*  
35 *county or city who make such an allegation to the general registrar, the registrar shall post at the*  
36 *courthouse or publish in a newspaper of general circulation in his county or city the name of the*  
37 *registered voter on a list of persons whose registrations are to be cancelled by the general registrar.*  
38 *The list shall be certified by the registrar and delivered or sent by mail to the county or city chairman*  
39 *of each political party. If sent by mail, the general registrar shall obtain a certificate of mailing. In*  
40 *addition to the posted or published list, the general registrar shall send a notice by mail to the last*  
41 *known address of each registered voter on the list, stating the reasons provided by law for the*  
42 *cancellation, the facts on which the cancellation is based, and when the registrar, at his office during*  
43 *regular office hours, will hear testimony produced for or against the right of persons named in the*  
44 *notice to be retained on the registration records. The hearings shall be held not less than ten days*  
45 *after the mailing of the notice, and in no event shall be within sixty days of the general election in*  
46 *November or within thirty days of any other election in the county or city.*

47     *At the hearing, the registrar shall hear the testimony produced and shall determine if the registered*  
48 *voter named in the notice is qualified to vote in the county or city. If the person is no longer*  
49 *qualified to vote, the registrar shall cancel the voter's registration. Nothing contained in this section*  
50 *shall prevent the registered voter from applying to the general registrar for a transfer to his proper*  
51 *jurisdiction, provided the registration records are not closed as provided by law. The general registrar*  
52 *may continue the hearing for a period of not more than thirty days in order to complete his*  
53 *examination. If the registered voter so challenged fails to appear and defend his right to be registered,*  
54 *his registration shall be cancelled by the general registrar.*

1 § 24.2-431. Petition to court objecting to registration.

2 In addition to challenging a voter's registration before the general registrar, any three qualified  
3 voters may file with the circuit court of the county or city in which they are registered, a petition  
4 stating their objections to the registration of any person whose name is on the registration records for  
5 their county or city. *However, no petition may be filed if the only objection raised is based on*  
6 *removal of residence from the precinct.*

7 § 24.2-444. Registration records open to public inspection.

8 ~~Registration~~ A. *Except for records relating to the declinations to register to vote or the identity of*  
9 *a voter registration agency through which a particular voter is registered, registration records shall*  
10 *be kept and preserved by the general registrar and shall be opened to inspection by any registered*  
11 *voter at the office of the general registrar when the office is open for business. The registration*  
12 *records shall be available for inspection by appointment, made by the general registrar for any*  
13 *reasonable time requested. No voter registration record containing an individual's social security*  
14 *number shall be made available for inspection or copying by anyone.*

15 B. *The general registrars shall maintain for at least two years and shall make available for public*  
16 *inspection and copying and, where available, photocopying at a reasonable cost, all records*  
17 *concerning the implementation of programs and activities conducted for the purpose of ensuring the*  
18 *accuracy and currency of the registration records, except to the extent that the records relate to the*  
19 *declination to register to vote or the identity of a voter registration agency through which any*  
20 *particular voter is registered. The records maintained shall include lists of the names and addresses*  
21 *of all persons to whom notices described are sent, and information concerning whether each person*  
22 *has responded to the notice as of the date that inspection of the records is made.*

23 C. The State Board shall provide to each general registrar, for each precinct in his county or city,  
24 lists of registered voters for inspection. The lists shall contain the name, addresses, date of birth,  
25 gender and all election districts applicable to each registered voter. New lists shall be provided not  
26 less than two times each year, and supplements containing additions, deletions and changes shall be  
27 provided not less than (i) weekly during the sixty days preceding any general election and (ii)  
28 monthly at other times. Notwithstanding any other provision of law regarding the retention of records,  
29 upon receipt of any new complete list, the general registrar shall destroy the obsolete list and its  
30 supplements.

31 2. That the provisions of this act shall become effective on January 1, 1996, except that the  
32 provisions contained in Article 3.1 (§ 24.2-416.1 et seq.) and subsection B of § 24.2-411.2 of this act  
33 shall become effective on July 1, 1995.

Official Use By Clerks	
<b>Passed By</b> <b>The House of Delegates</b>	<b>Passed By The Senate</b>
without amendment	without amendment
with amendment	with amendment
substitute	substitute
substitute w/amdt	substitute w/amdt
Date: _____	Date: _____
_____ Clerk of the House of Delegates	_____ Clerk of the Senate



## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 24.2-101, 24.2-114, 24.2-401, 24.2-412, 24.2-413, 24.2-417, 24.2-425, 24.2-426, 24.2-427, 24.2-428, 24.2-429, 24.2-431, and 24.2-444 of the Code of Virginia; to amend the Code of Virginia by adding in Title 24.2 an article numbered 3.1, containing sections numbered 24.2-416.1 through 24.2-416.4; and to amend the Code of Virginia by adding sections numbered 24.2-405.1, 24.2-409.1, 24.2-411.1, 24.2-411.2, 24.2-415.1, 24.2-428.1, and 24.2-428.2; relating to the implementation of the National Voter Registration Act (42 U.S.C. § 1973gg et seq.).*

[H 2327]

**VETOED** MAY 5 1995  
Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-101, 24.2-114, 24.2-401, 24.2-412, 24.2-413, 24.2-417, 24.2-425, 24.2-426, 24.2-427, 24.2-428, 24.2-429, 24.2-431, and 24.2-444 of the Code of Virginia are amended and reenacted, and that the Code of Virginia is amended by adding in Title 24.2 an article numbered 3.1, containing sections numbered 24.2-416.1 through 24.2-416.4, and by adding sections numbered 24.2-405.1, 24.2-409.1, 24.2-411.1, 24.2-411.2, 24.2-415.1, 24.2-428.1, and 24.2-428.2 as follows:

§ 24.2-101. Definitions.

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

“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.) and 9 (§ 24.2-900 et seq.) of this title, “candidate” shall include any write-in candidate.

“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 office” or “constitutional officer” means a county or city office 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.

“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.

“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.

“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.

“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 ten 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.

“Polling place” means 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.

"Qualified voter" means a person who is entitled to vote pursuant to the Constitution of Virginia and who is (i) eighteen years of age, (ii) a resident of the Commonwealth and of the precinct in which he offers to vote, and (iii) registered to vote. 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 to be mentally incompetent shall be a qualified voter unless his competency has been reestablished as provided by law.

"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.) of this title. For purposes of determining the number of signatures required for candidate and voter petitions and calculating election machine requirements pursuant to Article 3 (§ 24.2-625 et seq.) of Chapter 6 of this title, "registered voter" shall include only persons maintained on the Virginia voter registration system with active status.*

"Registration records" means all official records concerning the registration of qualified voters and shall include all records, lists, 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. In determining domicile, consideration may be given to a person's expressed intent, conduct, and all attendant circumstances including, but not limited to, financial independence, business pursuits, employment, income sources, residence for income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real property owned by the person, motor vehicle and other personal property registration, and other factors reasonably necessary to determine the qualification of a person to register or vote.

"Special election" means any election which 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 which is maintained as provided in Article 2 (§ 24.2-404 et seq.) of Chapter 4 of this title.

§ 24.2-114. Duties and powers of general registrar.

In addition to the other duties required by this title, the general registrar, and the assistant registrars acting under his supervision, shall:

1. Maintain the office of the general registrar and establish and maintain additional public places for voter registration in accordance with the provisions of ~~Article 4 (§ 24.2-411 et seq.) of Chapter 4 of this title, § 24.2-412~~ and participate in programs to educate the general public concerning registration and encourage registration by the general public. No registrar shall actively solicit, in a selective manner, any application for registration or for a ballot or offer anything of value for any such application.

2. Perform his duties within the county or city he was appointed to serve, except that a registrar may go into a county or city in the Commonwealth contiguous to his county or city to register voters of his county or city when conducting registration jointly with the registrar of the contiguous county or city.

3. Provide the appropriate forms for applications to register and to obtain the information necessary to complete the applications pursuant to the provisions of the Constitution of Virginia and general law.

3a. Indicate on the registration records for each accepted mail voter registration application form

returned by mail pursuant to Article 3.1 (§ 24.2-416.1 et seq.) of Chapter 4 of this title that the registrant has registered by mail. The general registrar shall fulfill this duty in accordance with the instructions of the State Board so that those persons who registered by mail are identified on the registration records, lists of registered voters furnished pursuant to § 24.2-405, lists of persons who voted furnished pursuant to § 24.2-406, and precinct registered voter lists used for the conduct of elections.

4. Accept a registration application submitted ~~in person~~ by or for a resident of any other county or city in the Commonwealth. Registrars shall process registration applications from residents of other counties and cities in accordance with written instructions from the State Board and shall forward the completed application to the registrar of the applicant's residence ~~within twenty-four hours by hand or first-class mail.~~ Notwithstanding the provisions of § 24.2-416, the registrar of the applicant's residence shall ~~accept~~ recognize as timely any application submitted to any person authorized to receive voter registration applications pursuant to Chapter 4 (§ 24.2-400 et seq.) of this title, prior to or on the final day of registration. The registrar of the applicant's residence shall determine the qualification of the applicant, and promptly notify the applicant at the address shown on the application of the acceptance or denial of his registration.

5. Preserve order at and in the vicinity of the place of registration. For this purpose, the registrar shall be vested with the powers of a conservator of the peace while engaged in the duties imposed by law. He may exclude from the place of registration persons whose presence disturbs the registration process. He may appoint special officers, not exceeding three in number, for a place of registration and may summon persons in the vicinity to assist whenever, in his judgment, it is necessary to preserve order. The general registrar and any assistant registrar shall be authorized to administer oaths for purposes of this title.

6. Maintain the official registration records for his county or city in the system approved by, and in accordance with the instructions of, the State Board; preserve the written applications of all persons who are registered; and preserve for a period of four years the written applications of all persons who are denied registration or whose registration is cancelled.

7. If a person is denied registration, promptly notify such person in writing of the denial and the reason for denial in accordance with § 24.2-422.

8. Verify the accuracy of the separate precinct registered voter lists provided for each election by the State Board, make the lists available to the precincts, and return the lists to the State Board after each election for voting credit purposes.

9. After the return of the precinct registered voter lists by the State Board, retain the lists in his principal office for four years.

10. Maintain accurate and current registration records and comply with the requirements of this title for the transfer, inactivation, and cancellation of voter registrations.

11. Whenever election districts, precincts, or polling places are altered, provide for entry into the voter registration system of the proper district and precinct designations for each registered voter whose districts or precinct have changed and notify each affected voter of changes affecting his districts or polling place by mail.

12. Whenever any part of his county or city becomes part of another jurisdiction by annexation, merger, or other means, transfer to the appropriate general registrar the registration records of the affected registered voters. The general registrar for their new county or city shall notify them by mail of the transfer and their new election districts and polling places.

13. When he registers any person who was previously registered in another state, notify the appropriate authority in that state of the person's registration in Virginia.

14. At the request of the county or city chairman of any political party nominating a candidate for the General Assembly, constitutional office, or local office by a method other than a primary, review any petition required by the party in its nomination process to determine whether those signing the petition are registered voters with active status.

15. Carry out such other duties as prescribed by the electoral board.

§ 24.2-401. Persons moving from precinct.

A person who is qualified to vote except for having moved his residence from one precinct to another within the Commonwealth may vote in the precinct from which he has moved in the

following November general election and any intervening election unless his registration has been transferred or cancelled as provided in this chapter. Such person may continue to vote in the precinct from which he has moved, for federal offices only, through the second general and intervening elections for federal office, provided that (i) he has moved his residence from one precinct to another in the same registrar's jurisdiction and the same congressional district; (ii) he has failed to respond to the notice provide in § 24.2-428; (iii) his registration has not been transferred or cancelled as provided in this chapter; and (iv) he has affirmed orally or in writing his new address before an officer of election at the polling place.

§ 24.2-405.1. Secretary of State Board of Elections to serve as state coordinator for the administration of the National Voter Registration Act.

The Secretary of the State Board of Elections shall be the chief state election officer responsible for the coordination of state responsibilities under the National Voter Registration Act (42 U.S.C. § 1973gg et seq.).

§ 24.2-409.1. State Board to transmit information pertaining to persons convicted of a felony in federal court.

Upon receipt of a notice of a felony conviction sent by a United States Attorney pursuant to the National Voter Registration Act (42 U.S.C. § 1973gg et seq.), the State Board shall notify the appropriate general registrar of the conviction.

§ 24.2-411.1. Offices of the Department of Motor Vehicles.

A. The Department of Motor Vehicles shall provide the opportunity to register to vote to each person who comes to an office of the Department to:

1. Apply for, replace, or renew a driver's license;
2. Apply for, replace, or renew a special identification card; or
3. Change an address on existing driver's license or special identification card.

B. The method used to receive an application for voter registration shall avoid duplication of the license portion of the license application and require only the minimum additional information necessary to enable registrars to determine the voter eligibility of the applicant and to administer voter registration and election laws. A person who does not sign the registration portion of the application shall be deemed to have declined to register at that time. The voter application shall include a statement that if an applicant declines to register to vote the fact the applicant has declined to register will remain confidential and will be used only for voter registration purposes.

Each application form distributed under this section shall be accompanied by the following statement featured prominently in boldface capital letters: **"WARNING: INTENTIONALLY MAKING A MATERIALLY FALSE STATEMENT ON THIS FORM CONSTITUTES THE CRIME OF ELECTION FRAUD, WHICH IS PUNISHABLE UNDER VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO TEN YEARS' IMPRISONMENT, OR UP TO 12 MONTHS IN JAIL, AND FINED UP TO \$2,500."**

Any completed application for voter registration submitted by a person who is already registered shall serve as a written request to update his registration record. Any change of address form submitted for purposes of a motor vehicle driver's license or special identification card shall serve as notification of change of address for voter registration for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes. If the information from the notification of change of address for voter registration indicates that the registered voter has moved to another general registrar's jurisdiction within the Commonwealth, the notification shall be treated as a request for transfer from the registered voter. The notification and the registered voters' registration record shall be transmitted as directed by the State Board of Elections to the appropriate general registrar who shall send a confirmation notice of the transfer to the voter pursuant to § 24.2-425.

C. A completed voter registration portion of the application shall be transmitted as directed by the State Board not later than five business days after the date of receipt.

D. The Department of Motor Vehicles shall maintain such statistical records on the number of applications to register to vote as requested by the State Board.

§ 24.2-411.2. Designated state voter registration agencies.

A. The following agencies are designated as voter registration agencies in compliance with the

National Voter Registration Act (42 U.S.C. § 1973gg et seq.) and shall provide voter registration opportunities at their state, regional, or local offices, depending upon the point of service:

1. Agencies that provide benefits under the Aid to Families with Dependent Children, Special Supplemental Food Program for Women, Infants, and Children, Medicaid, or Food Stamps program;
2. Armed Forces recruitment offices;
3. Agencies whose primary function is to provide public assistance;
4. Agencies whose primary function is to provide state-funded programs primarily engaged in providing services to persons with disabilities; and
5. The Virginia Employment Commission.

B. The Secretary of the State Board of Elections, with the assistance of the Office of Attorney General shall compile and maintain a list of the specific agencies covered by subdivisions 3 and 4 of subsection A, which, in the legal opinion of the Attorney General, must be designated to meet the requirements of the National Voter Registration Act (42 U.S.C. § 1973gg et seq.). The Secretary of the State Board of Elections shall notify these agencies prior to October 1, 1995, of their designation and thereafter notify any agency added to or deleted from the list.

C. At each voter registration agency, the following services shall be made available on the premises of the agency:

1. Distribution of mail voter registration forms provided by the State Board of Elections;
2. Assistance to applicants in completing voter registration application forms, unless the applicant refuses assistance; and
3. Receipt of completed voter registration application forms.

D. A voter registration agency, which provides service or assistance in conducting voter registration, shall make the following services available on the premises of the agency:

1. Distribute with each application for its service or assistance, or upon admission to a facility or program, and with each recertification, readmission, renewal, or change of address form, a voter registration application prescribed by the State Board of Elections that complies with the requirements of the National Voter Registration Act (42 U.S.C. § 1973gg et seq.).

2. Provide, as part of the voter registration application, a form that includes:

a. The question "If you are not registered to vote where you live now, would you like to apply to register to vote here today?";

b. If the agency provides public assistance, the statement, "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency.";

c. Boxes for the applicant to check to indicate whether the applicant would like to register, declines to register to vote, or is already registered (failure to check any box being deemed to constitute a declination to register for purposes of subdivision 2a of this section), together with the statement (in close proximity to the boxes and in prominent type) "IF YOU DO NOT CHECK ANY BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME.";

d. The statement, "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek help or accept help is yours. You may fill out the application form in private.";

e. The statement, "If you believe that someone has interfered with your right to register or to decline to register to vote, your right to privacy in deciding whether to register or in applying to register to vote, you may file a complaint with the State Board of Elections." The statement shall include the address and telephone number of the State Board; and

f. The following statement accompanying the form which features prominently in boldface capital letters: "WARNING: INTENTIONALLY MAKING A MATERIALLY FALSE STATEMENT ON THIS FORM CONSTITUTES THE CRIME OF ELECTION FRAUD, WHICH IS PUNISHABLE UNDER VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO TEN YEARS' IMPRISONMENT, OR UP TO 12 MONTHS IN JAIL, AND FINED UP TO \$2,500."

3. Provide to each applicant who does not decline to register to vote the same degree of assistance with regard to the completion of the voter registration application as is provided by the office with regard to the completion of its own applications, unless the applicant refuses assistance.

E. If a voter registration agency designated under subsection A of this section provides services to

a person with a disability at the person's home, the agency shall provide the voter registration services as provided for in this section.

F. A person who provides services at a designated voter registration agency shall not:

1. Seek to influence an applicant's political preference;
2. Display any material indicating the person's political preference or party allegiance; or
3. Make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits.

Any person who is aggrieved by a violation of this subsection may provide written notice of the violation to the State Board of Elections. The Board shall be authorized to cooperate with the agency to resolve the alleged violation. Nothing contained in this subsection shall prohibit an aggrieved person from filing a complaint in accordance with § 24.2-1019 against a person who commits any election law offense enumerated in Chapter 10 of this title, except for violations provided for in § 24.2-1017.

G. A completed voter registration application shall be transmitted as directed by the State Board of Elections not later than five business days after the date of receipt.

H. Each state designated voter registration agency shall maintain such statistical records on the number of applications and declinations to register to vote as requested by the State Board of Elections.

§ 24.2-412. Other locations and times for voter registration.

A. In addition to voter registration locations provided for in §§ 24.2-411 through 24.2-411.2, opportunities for voter registration may be provided at other agency offices, business offices, other establishments and occasional sites open to the general public, and shall be provided as required by this section. Voter registration shall be conducted only in public places open to the general public and at preannounced hours. Assistant registrars should serve during such hours and at such places. The conduct of voter registration by the general registrar or an assistant registrar in public places at preannounced hours shall not be deemed solicitation of registration.

B. The general registrar is authorized to set within his jurisdiction ongoing locations and times for registration in local or state government agency offices or in businesses or other establishments open to the general public, subject to the approval of, and pursuant to an agreement with, the head of the government agency, the owner or manager of the business or establishment, or the designee of either. The agreement shall provide for the appointment of employees of the agency, business, or establishment to serve as assistant registrars and shall be in writing and approved by the local electoral board prior to implementation.

Employees of the agency, business, or establishment who are appointed to serve as assistant registrars may be nonresidents of the jurisdiction they are appointed to serve, provided that (i) they are qualified voters of the Commonwealth and (ii) they serve only at their place of employment within the jurisdiction they are appointed to serve.

C. The general registrar or electoral board may set additional occasional sites and times for registration within the jurisdiction. A multi-family residential building not usually open to the public may be used as an occasional registration site so long as the public has free access to the site during the time for registering voters.

D. The general registrar in each county or city shall designate registration locations, in addition to the general registrar's principal office, for registration at one or more times within the forty days immediately preceding the final day of registration prior to each November general election. He shall designate at least one location for each 5,000 of population in his county or city, but shall not be required to designate more than twenty locations for the purposes of this subsection. These locations shall be geographically dispersed throughout the county or city. Times for registration at these locations shall be scheduled, to the extent possible, after five o'clock p.m. or on weekends. Each general registrar shall file with the State Board by the immediately preceding August 15, the plans for these designated locations and the hours each location will be open.

§ 24.2-413. Accessible registration locations.

The office of the general registrar, and each agency, business, and establishment set for registration pursuant to §§ 24.2-411.1, 24.2-411.2 and 24.2-412 B shall be accessible 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 (42 U.S.C. § 1973ee 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 Department of Motor Vehicles, state designated voter registration agencies, the local electoral boards and general registrars to assist them in complying with the requirements of the Acts.

In the selection of additional registration sites as provided in § 24.2-412, consideration shall be given to accessibility so that a reasonable number of accessible sites are provided and the requirements of the above cited Acts are met.

§ 24.2-415.1 *Persons authorized to receive voter registration applications.*

A. Any designated employee of an office of the Department of Motor Vehicles, state designated voter registration agency, or Armed Services recruitment office shall be authorized to receive a voter registration application when hand delivered by the applicant during the hours that the office is open.

B. The registration date for a valid voter registration application that has been hand delivered is the date when received by any general registrar or any person authorized to receive voter registration applications pursuant to subsection A of this section.

#### Article 3.1.

#### Mail Registration.

§ 24.2-416.1. *Voter registration by mail.*

A. A person may apply to register to vote by mail by completing and returning a mail voter registration form in the manner and time provided by law.

B. Any person, who registers to vote by mail pursuant to this article and who has not previously voted in the county or city in which he registers to vote, shall be required to vote in person. However, this requirement to vote in person shall not apply to a person (i) who is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff-1 et seq.); (ii) who is provided the right to vote otherwise than in person under § 3 (b) (2) (B) (ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee-1 (b) (2) (B) (ii)); (iii) who is entitled to vote otherwise than in person under other federal law; or (iv) who is a full-time student in an institution of higher learning.

§ 24.2-416.2. *Mail Voter Registration Application Forms.*

Notwithstanding the provisions of § 24.2-418, the national mail voter registration application form promulgated by the Federal Election Commission pursuant to the National Voter Registration Act (42 U.S.C. § 1973gg et seq.) shall be accepted for the registration of otherwise qualified voters to vote in federal elections for federal offices. In addition to the national voter registration application form promulgated by the Federal Election Commission, the State Board of Elections shall design and distribute a state mail registration application form. Such state form shall include the eligibility requirements for registration as provided in this title and shall require each applicant to provide the information required subject to felony penalties for making false statements pursuant to § 24.2-1016.

Each mail registration form shall be accompanied by the following statement featured prominently in boldface capital letters: "WARNING: INTENTIONALLY MAKING A MATERIALLY FALSE STATEMENT ON THIS FORM CONSTITUTES THE CRIME OF ELECTION FRAUD, WHICH IS PUNISHABLE UNDER VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO TEN YEARS' IMPRISONMENT, OR UP TO 12 MONTHS IN JAIL AND FINED UP TO \$2,500."

§ 24.2-416.3. *Distribution of mail registration application forms.*

The State Board of Elections shall make available to any individual or group a reasonable number of mail voter registration application forms.

§ 24.2-416.4. *Return of mail voter registration applications.*

A. Notwithstanding the provisions of § 24.2-416, a mail voter registration application returned through the United States Postal Service shall be deemed to have been made as of the date of the postmark affixed to such application by the United States Postal Service. If no such postmark is affixed or if the postmark affixed by the United States Postal Service is illegible or bears no date, such application shall be deemed to have been timely if received through the United States mail no later than five days following the time for the closing of the registration books pursuant to § 24.2-416.

*B. In any other case, a completed mail voter registration application form shall be deemed timely if received by any general registrar or any person authorized to receive voter registration applications pursuant to § 24.2-415.1, by the deadline provided for in § 24.2-416 for closing the registration books.*

§ 24.2-417. Persons to be registered.

Each registrar shall register every resident of his county or city who has the qualifications required by the Constitution of Virginia and this title and who applies for registration ~~in person, or by absentee application as set forth in § 24.2-419,~~ at the time and in the manner required by law.

Any person, once properly registered, shall remain registered unless his registration is cancelled pursuant to Article 5 (§ 24.2-426 et seq.) of this chapter.

§ 24.2-425. Transfer of registered voter to another county or city.

Whenever a registered voter changes his place of residence from one county or city to another in the Commonwealth, he may appear in person before a general registrar to request transfer of his registration and provide, subject to felony penalties for making false statements pursuant to § 24.2-1016, all pertinent information required by § 24.2-418 for registration.

A request for transfer may be made by mail *on a form prescribed by the State Board* in which case the application for transfer shall be signed by the voter and subject to felony penalties for making false statements pursuant to § 24.2-1016. ~~His signature shall be witnessed by one person who shall sign the application, provide his full name and address, and state he is age eighteen or older.~~

If the general registrar of the voter's new residence is satisfied that the voter has met the requirements to be registered, the voter's registration shall be transferred and a new voter registration card issued to him. A transfer may be entered in the registration records at any time the registration records are not closed pursuant to § 24.2-416.

§ 24.2-426. Voluntary cancellation of registration.

Any registered voter may cancel his registration and have his name removed from the active central registration records by signing in person at the office of the general registrar an authorization for cancellation on a form prescribed by the State Board.

§ 24.2-427. Cancellation of registration for persons known to be deceased or disqualified to vote.

The general registrar shall cancel the registration of (i) all persons known by him to be deceased or disqualified to vote by reason of a felony conviction or adjudication of mental incompetency and (ii) all persons for whom a notice has been received, signed by the voter or the registration official of another jurisdiction, that the voter has moved from the county or city. *The notice received in subdivision (ii) shall be considered as a written request from the voter to have his registration cancelled.* A voter's registration may be cancelled at any time during the year in which the general registrar discovers that the person is no longer entitled to be registered.

§ 24.2-428. Regular periodic review of registration records: notice to voters identified as having moved: placement on inactive active status for failure to respond to notice.

A. The State Board shall ~~mail annually to each registered voter who has not voted at least once during four consecutive calendar years a notice, sent to his address on the registration records, that his registration will be cancelled if he does not affirm on an enclosed registration extension application that he continues to reside at the address shown on the enclosed form and desires to remain registered~~ *establish a voter list maintenance program using the change of address information supplied by the United States Postal Service through its licensees or by other reliable sources to identify voters whose addresses may have changed. Any such program shall be regular and periodic and shall be conducted at least annually. The program shall be completed not later than ninety days prior to the date of a federal primary or federal general election.*

*B. If it appears from information provided by the postal service or by other reliable sources that a voter has moved to a different address in the same county or city in which the voter is currently registered, the State Board of Elections shall provide to the general registrar the information necessary to change the registration records to show the new address and the general registrar shall send to the new address of the voter by forwardable mail, a notice of the change, along with a postage prepaid, pre-addressed return card by which the voter may verify or correct the address information.*

*C. If it appears from information provided by the postal service or by other reliable sources that a*



voter has moved to a different address not in the same county or city, the general registrar shall send to the last known address of the voter by forwardable mail, a notice on a form prescribed by the State Board, along with a postage prepaid and pre-addressed return card on which the voter may state his current address.

D. The registered voter shall complete and sign the application return card subject to felony penalties for making false statements pursuant to § 24.2-1016. His signature shall be witnessed by one person who shall also sign the form. The returned form must be postmarked no later than January 15 in order for the voter to remain registered. Any registered voter who returns the signed application form shall remain registered as long as he votes at least once in the four consecutive years following the mailing of the notice and is not otherwise disqualified to vote. The registration of any voter who does not return the form shall be cancelled.

E. The general registrar shall correct his registration records from the information obtained from the return card. If the information indicates that the registered voter has moved to another general registrar's jurisdiction within the Commonwealth, the general registrar shall transfer the registration record, along with the return card to the appropriate general registrar who shall treat the request for a change of address as a request for transfer and shall send a confirmation notice to the voter pursuant to § 24.2-425. If the general registrar does not receive the return card provided for in subsection C of this section within thirty days after it is sent to the voter, the registered voter's name shall be placed on inactive status. A registered voter's failure to receive the notice shall not affect the validity of the cancellation inactivation.

The notice of intent to cancel shall be mailed by first class postage "Do Not Forward" by the State Board prior to December 31 in each calendar year. All returned forms for requests to remain registered shall be forwarded to the general registrars by the State Board.

The general registrar shall post at the courthouse or have published in a newspaper of general circulation in his county or city a list of names of persons whose registration has been cancelled pursuant to this section. He shall deliver or mail, obtaining a certificate of mailing, a certified copy of the list to the chairman of each political party in his county or city.

§ 24.2-428.1. Other procedures for assigning registered voters to inactive status.

In addition to the voter list maintenance program provided for in § 24.2-428, the general registrar and registered voter shall follow the confirmation notification procedures set forth in subsections C through E of § 24.2-428, if any of the following documents sent to the registered voter are returned by the postal service as undeliverable:

1. An acknowledgment of registration;
2. An acknowledgment of transfer to a new address;
3. An absentee ballot or application for an absentee ballot sent or provided in accordance with Chapter 7 of this title;
4. Notification to a voter after a precinct reassignment;
5. Notification of a change of address sent to a voter in accordance with subsection B of § 24.2-428; or
6. Any official voter registration or election mail.

§ 24.2-428.2. Return of registered voter to active status.

A registered voter shall be returned to active status from inactive status if, during the period beginning on the date the voter was assigned to inactive status and ending on the day of the second general election for federal office thereafter, the voter:

1. Notifies the general registrar of a change of address within the county or city;
2. Responds to a confirmation notice with information that the voter continues to reside at the registration address;
3. Votes or attempts to vote in a primary or a special or general election and, if necessary, corrects the registration record; or
4. Transfers his registration to another county or city within the Commonwealth, pursuant to § 24.2-425 or subsection E of § 24.2-428.

If the registered voter fails to take such action on or before the day of the second general election for federal office after the voter was placed on inactive status, the general registrar shall cancel the person's voter registration.

*The general registrar shall post at the courthouse or have published in a newspaper of general circulation in his county or city a list of names of persons whose registration has been cancelled pursuant to this section. He shall deliver or mail, obtaining a certificate of mailing, a certified copy of the list to the chairman of each political party in his county or city.*

§ 24.2-429. Maintenance of accurate registration records by general registrar; notice and hearing before cancellation.

Whenever a registered voter is alleged to be improperly registered, *except for reason of removal of residence from the precinct*, either by the general registrar or by any three qualified voters of the county or city who make such an allegation to the general registrar, the registrar shall post at the courthouse or publish in a newspaper of general circulation in his county or city the name of the registered voter on a list of persons whose registrations are to be cancelled by the general registrar. The list shall be certified by the registrar and delivered or sent by mail to the county or city chairman of each political party. If sent by mail, the general registrar shall obtain a certificate of mailing. In addition to the posted or published list, the general registrar shall send a notice by mail to the last known address of each registered voter on the list, stating the reasons provided by law for the cancellation, the facts on which the cancellation is based, and when the registrar, at his office during regular office hours, will hear testimony produced for or against the right of persons named in the notice to be retained on the registration records. The hearings shall be held not less than ten days after the mailing of the notice, and in no event shall be within sixty days of the general election in November or within thirty days of any other election in the county or city.

At the hearing, the registrar shall hear the testimony produced and shall determine if the registered voter named in the notice is qualified to vote in the county or city. If the person is no longer qualified to vote, the registrar shall cancel the voter's registration. Nothing contained in this section shall prevent the registered voter from applying to the general registrar for a transfer to his proper jurisdiction, provided the registration records are not closed as provided by law. The general registrar may continue the hearing for a period of not more than thirty days in order to complete his examination. If the registered voter so challenged fails to appear and defend his right to be registered, his registration shall be cancelled by the general registrar.

§ 24.2-431. Petition to court objecting to registration.

In addition to challenging a voter's registration before the general registrar, any three qualified voters may file with the circuit court of the county or city in which they are registered, a petition stating their objections to the registration of any person whose name is on the registration records for their county or city. *However, no petition may be filed if the only objection raised is based on removal of residence from the precinct.*

§ 24.2-444. Registration records open to public inspection.

A. *Except for records relating to the declinations to register to vote or the identity of a voter registration agency through which a particular voter is registered*, registration records shall be kept and preserved by the general registrar and shall be opened to inspection by any registered voter at the office of the general registrar when the office is open for business. The registration records shall be available for inspection by appointment, made by the general registrar for any reasonable time requested. No voter registration record containing an individual's social security number shall be made available for inspection or copying by anyone.

B. *The general registrars shall maintain for at least two years and shall make available for public inspection and copying and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of the registration records, except to the extent that the records relate to the declination to register to vote or the identity of a voter registration agency through which any particular voter is registered. The records maintained shall include lists of the names and addresses of all persons to whom notices described are sent and information concerning whether each person has responded to the notice as of the date that inspection of the records is made.*

C. The State Board shall provide to each general registrar, for each precinct in his county or city, lists of registered voters for inspection. The lists shall contain the name, addresses, date of birth, gender and all election districts applicable to each registered voter. New lists shall be provided not less than two times each year, and supplements containing additions, deletions and changes shall be

provided not less than (i) weekly during the sixty days preceding any general election and (ii) monthly at other times. Notwithstanding any other provision of law regarding the retention of records, upon receipt of any new complete list, the general registrar shall destroy the obsolete list and its supplements.

2. That, except as provided in the third enactment of this act, the provisions of this act shall become effective on January 1, 1996, except to the extent provided pursuant to the following three provisions:

A. an enactment of the Congress of the United States becomes effective before January 1, 1996, which repeals or suspends the National Voter Registration Act of 1993, in whole or in part, in which case those provisions of this act which implement the provisions of the National Voter Registration Act that are repealed or suspended by the Congress shall not take effect; or

B. an enactment of the Congress of the United States becomes effective before January 1, 1996, which amends the National Voter Registration Act of 1993 to provide for a date later than January 1, 1996, for the required implementation of the Act, in whole or in part, in Virginia, in which case those provisions of this act which implement the provisions of the National Voter Registration Act of 1993 for which implementation is delayed shall not take effect until the later implementation date set by the enactment of the Congress; or

C. the Governor, or his designated representative, has filed suit on behalf of the Commonwealth, in a court of competent jurisdiction and obtained an injunction or stay, effective on or before January 1, 1996, which delays the implementation of the National Voter Registration Act of 1993 in the Commonwealth, in which case the provisions of this act, shall not become effective while the injunction or stay remains in effect and during the timely application for the continuation or reinstatement of the injunction pending an appeal by the Commonwealth.

3. That the provisions contained in Article 3.1 (§ 24.2-416.1 et seq.) and subsection B of § 24.2-411.2 of this act shall become effective on July 1, 1995. Furthermore, the agencies of the Commonwealth shall be authorized to take appropriate actions beginning July 1, 1995, to prepare for the implementation of this act upon its effective date.

LD4803188

HOUSE BILL NO. 2361

Offered January 23, 1995

A BILL to amend and reenact §§ 24.2-114 and 24.2-417 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 4 of Title 24.2 an article numbered 3.1, consisting of sections numbered 24.2-416.1 through 24.2-416.4, relating to voter registration; duties of the general registrars; and registration by mail.

Patrons—Cunningham, Christian, Crittenden, Jones, D.C., Jones, J.C., Robinson and Spruill; Senators: Lucas, Marsh and Miller, Y.B.

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-114 and 24.2-417 of the Code of Virginia are amended, and reenacted and that the Code of Virginia is amended by adding in Chapter 4 of Title 24.2 an article numbered 3.1, consisting of sections numbered 24.2-416.1 through 24.2-416.4, as follows:

§ 24.2-114. Duties and powers of general registrar.

In addition to the other duties required by this title, the general registrar, and the assistant registrars acting under his supervision, shall:

1. Maintain the office of the general registrar and establish and maintain additional public places for voter registration in accordance with the provisions of Article 4 (§ 24.2-411 et seq.) of Chapter 4 of this title, and participate in programs to educate the general public concerning registration and encourage registration by the general public. No registrar shall actively solicit, in a selective manner, any application for registration or for a ballot or offer anything of value for any such application.

2. Perform his duties within the county or city he was appointed to serve, except that a registrar may go into a county or city in the Commonwealth contiguous to his county or city to register voters of his county or city when conducting registration jointly with the registrar of the contiguous county or city.

3. Provide the appropriate forms for applications to register and to obtain the information necessary to complete the applications pursuant to the provisions of the Constitution of Virginia and general law. Any person may request by mail, by telephone, in person, or through another person, a registration application form from the office of the general registrar. Any person who completes a registration application form may return the form to the office of the general registrar by mail, in person, or through another person.

4. Accept a registration application submitted in person by or for a resident of any other county or city in the Commonwealth. Registrars shall process registration applications from residents of other counties and cities in accordance with written instructions from the State Board and shall forward the completed application to the registrar of the applicant's residence within twenty-four hours by hand or first-class mail. The registrar of the applicant's residence shall accept as timely any application submitted prior to or on the final day of registration, determine the qualification of the applicant, and promptly notify the applicant at the address shown on the application of the acceptance or denial of his registration.

5. Preserve order at and in the vicinity of the place of registration. For this purpose, the registrar shall be vested with the powers of a conservator of the peace while engaged in the duties imposed by law. He may exclude from the place of registration persons whose presence disturbs the registration process. He may appoint special officers, not exceeding three in number, for a place of registration and may summon persons in the vicinity to assist whenever, in his judgment, it is necessary to preserve order. The general registrar and any assistant registrar shall be authorized to administer oaths for purposes of this title.

6. Maintain the official registration records for his county or city in the system approved by, and in accordance with the instructions of, the State Board; preserve the written applications of all persons who are registered; and preserve for a period of four years the written applications of all persons who are denied registration or whose registration is cancelled.

LD4803188

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1 7. If a person is denied registration, promptly notify such person in writing of the denial and the  
 2 reason for denial in accordance with § 24.2-422.

3 8. Verify the accuracy of the separate precinct registered voter lists provided for each election by  
 4 the State Board, make the lists available to the precincts, and return the lists to the State Board after  
 5 each election for voting credit purposes.

6 9. After the return of the precinct registered voter lists by the State Board, retain the lists in his  
 7 principal office for four years.

8 10. Maintain accurate and current registration records and comply with the requirements of this  
 9 title for the transfer and cancellation of voter registrations.

10 11. Whenever election districts, precincts, or polling places are altered, provide for entry into the  
 11 voter registration system of the proper district and precinct designations for each registered voter  
 12 whose districts or precinct have changed and notify each affected voter of changes affecting his  
 13 districts or polling place by mail.

14 12. Whenever any part of his county or city becomes part of another jurisdiction by annexation,  
 15 merger, or other means, transfer to the appropriate general registrar the registration records of the  
 16 affected registered voters. The general registrar for their new county or city shall notify them by mail  
 17 of the transfer and their new election districts and polling places.

18 13. When he registers any person who was previously registered in another state, notify the  
 19 appropriate authority in that state of the person's registration in Virginia.

20 14. At the request of the county or city chairman of any political party nominating a candidate for  
 21 the General Assembly, constitutional office, or local office by a method other than a primary, review  
 22 any petition required by the party in its nomination process to determine whether those signing the  
 23 petition are registered voters.

24 15. Carry out such other duties as prescribed by the electoral board.

25 *Article 3.1.*

26 *Mail Registration.*

27 *§ 24.2-416.1. Voter registration by mail.*

28 *A person may apply to register to vote by mail by completing and returning a mail voter  
 registration form in the manner and time provided by law.*

29 *§ 24.2-416.2. Mail Voter Registration Application Forms.*

30 *Notwithstanding the provisions of § 24.2-418, the national mail voter registration application form  
 31 promulgated by the Federal Election Commission pursuant to the National Voter Registration Act (42  
 32 U.S.C. § 1973gg et seq.) shall be accepted for the registration of otherwise qualified voters to vote in  
 33 federal elections for federal offices. In addition to the national voter registration application form  
 34 promulgated by the Federal Election Commission, the State Board of Elections shall design and  
 35 distribute a state mail registration application form. Such state form shall include the eligibility  
 36 requirements for registration as provided in this title and shall require each applicant to provide the  
 37 information required subject to felony penalties for making false statements pursuant to § 24.2-1016.  
 38 The state mail registration application form shall contain a notice that the filing of the application  
 39 does not constitute registration and that the applicant will be notified whether or not the applicant  
 40 has been registered.*

41 *§ 24.2-416.3. Distribution of mail registration application forms.*

42 *The State Board of Elections shall make available to any individual or group a reasonable  
 43 number of mail voter registration-application forms. Each general registrar (i) shall, upon request  
 44 made by mail, telephone or in person, supply a mail voter registration application form to any  
 45 individual who seeks to register and (ii) shall, upon request made by mail or in person, supply a  
 46 reasonable number of mail voter registration application forms to any individual or group to  
 47 distribute to potential registration applicants.*

48 *§ 24.2-416.4. Return of mail voter registration applications.*

49 *A. Notwithstanding the provisions of § 24.2-416, a mail voter registration application returned  
 50 through the United States Postal Service shall be deemed to have been made as of the date of the  
 51 postmark affixed to such application by the United States Postal Service. If no such postmark is  
 52 affixed or if the postmark affixed by the United States Postal Service is illegible or bears no date,  
 53 such application shall be deemed to have been timely if received through the United States mail no  
 4*

1 later than five days following the time for the closing of the registration books pursuant to §  
2 24.2-416.

3 B. In any other case, a completed mail voter registration application form shall be deemed timely  
4 if received by any general registrar by the deadline provided for in § 24.2-416 for closing the  
5 registration books.

6 § 24.2-417. Persons to be registered.

7 Each registrar shall register every resident of his county or city who has the qualifications required  
8 by the Constitution of Virginia and this title and who applies for registration ~~in person, or by absentee~~  
9 ~~application as set forth in § 24.2-419,~~ at the time and in the manner required by law.

10 Any person, once properly registered, shall remain registered unless his registration is cancelled  
11 pursuant to Article 5 (§ 24.2-426 et seq.) of this chapter.

Official Use By Clerks	
<b>Passed By</b> <b>The House of Delegates</b> without amendment    — with amendment       — substitute               — substitute w/amdt      —	<b>Passed By The Senate</b> without amendment    — with amendment       — substitute               — substitute w/amdt      —
Date: _____	Date: _____
_____ Clerk of the House of Delegates	_____ Clerk of the Senate

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER

*An Act to amend and reenact §§ 24.2-114 and 24.2-417 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 4 of Title 24.2 an article numbered 3.1, consisting of sections numbered 24.2-416.1 through 24.2-416.4, relating to voter registration; duties of the general registrars; and registration by mail.*

**VET** Approved **ED**

MAY 5 1995

[H 2361]

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-114 and 24.2-417 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 4 of Title 24.2 an article numbered 3.1, consisting of sections numbered 24.2-416.1 through 24.2-416.4, as follows:

§ 24.2-114. Duties and powers of general registrar.

In addition to the other duties required by this title, the general registrar, and the assistant registrars acting under his supervision, shall:

1. Maintain the office of the general registrar and establish and maintain additional public places for voter registration in accordance with the provisions of Article 4 (§ 24.2-411 et seq.) of Chapter 4 of this title, and participate in programs to educate the general public concerning registration and encourage registration by the general public. No registrar shall actively solicit, in a selective manner, any application for registration or for a ballot or offer anything of value for any such application.

2. Perform his duties within the county or city he was appointed to serve, except that a registrar may go into a county or city in the Commonwealth contiguous to his county or city to register voters of his county or city when conducting registration jointly with the registrar of the contiguous county or city.

3. Provide the appropriate forms for applications to register and to obtain the information necessary to complete the applications pursuant to the provisions of the Constitution of Virginia and general law. *Any person may request by mail, by telephone, in person, or through another person, a registration application form from the office of the general registrar. Any person who completes a registration application form may return the form to the office of the general registrar by mail, in person, or through another person.*

4. Accept a registration application submitted ~~in person~~ by or for a resident of any other county or city in the Commonwealth. Registrars shall process registration applications from residents of other counties and cities in accordance with written instructions from the State Board and shall forward the completed application to the registrar of the applicant's residence within twenty-four hours by hand or first-class mail. The registrar of the applicant's residence shall accept as timely any application submitted prior to or on the final day of registration, determine the qualification of the applicant, and promptly notify the applicant at the address shown on the application of the acceptance or denial of his registration.

5. Preserve order at and in the vicinity of the place of registration. For this purpose, the registrar shall be vested with the powers of a conservator of the peace while engaged in the duties imposed by law. He may exclude from the place of registration persons whose presence disturbs the registration process. He may appoint special officers, not exceeding three in number, for a place of registration and may summon persons in the vicinity to assist whenever, in his judgment, it is necessary to preserve order. The general registrar and any assistant registrar shall be authorized to administer oaths for purposes of this title.

6. Maintain the official registration records for his county or city in the system approved by, and in accordance with the instructions of, the State Board; preserve the written applications of all persons who are registered; and preserve for a period of four years the written applications of all persons who are denied registration or whose registration is cancelled.

7. If a person is denied registration, promptly notify such person in writing of the denial and the reason for denial in accordance with § 24.2-422.

8. Verify the accuracy of the separate precinct registered voter lists provided for each election by

the State Board, make the lists available to the precincts, and return the lists to the State Board after each election for voting credit purposes.

9. After the return of the precinct registered voter lists by the State Board, retain the lists in his principal office for four years.

10. Maintain accurate and current registration records and comply with the requirements of this title for the transfer and cancellation of voter registrations.

11. Whenever election districts, precincts, or polling places are altered, provide for entry into the voter registration system of the proper district and precinct designations for each registered voter whose districts or precinct have changed and notify each affected voter of changes affecting his districts or polling place by mail.

12. Whenever any part of his county or city becomes part of another jurisdiction by annexation, merger, or other means, transfer to the appropriate general registrar the registration records of the affected registered voters. The general registrar for their new county or city shall notify them by mail of the transfer and their new election districts and polling places.

13. When he registers any person who was previously registered in another state, notify the appropriate authority in that state of the person's registration in Virginia.

14. At the request of the county or city chairman of any political party nominating a candidate for the General Assembly, constitutional office, or local office by a method other than a primary, review any petition required by the party in its nomination process to determine whether those signing the petition are registered voters.

15. Carry out such other duties as prescribed by the electoral board.

#### *Article 3.1.*

#### *Mail Registration.*

##### *§ 24.2-416.1. Voter registration by mail.*

*A person may apply to register to vote by mail by completing and returning a mail voter registration form in the manner and time provided by law.*

##### *§ 24.2-416.2. Mail Voter Registration Application Forms.*

*Notwithstanding the provisions of § 24.2-418, the national mail voter registration application form promulgated by the Federal Election Commission pursuant to the National Voter Registration Act (42 U.S.C. § 1973gg et seq.) shall be accepted for the registration of otherwise qualified voters to vote in federal elections for federal offices. In addition to the national voter registration application form promulgated by the Federal Election Commission, the State Board of Elections shall design and distribute a state mail registration application form. Such state form shall include the eligibility requirements for registration as provided in this title and shall require each applicant to provide the information required subject to felony penalties for making false statements pursuant to § 24.2-1016. The state mail registration application form shall contain a notice that the filing of the application does not constitute registration and that the applicant will be notified whether or not the applicant has been registered.*

##### *§ 24.2-416.3. Distribution of mail registration application forms.*

*The State Board of Elections shall make available to any individual or group a reasonable number of mail voter registration application forms. Each general registrar (i) shall, upon request made by mail, telephone or in person, supply a mail voter registration application form to any individual who seeks to register and (ii) shall, upon request made by mail or in person, supply a reasonable number of mail voter registration application forms to any individual or group to distribute to potential registration applicants.*

##### *§ 24.2-416.4. Return of mail voter registration applications.*

*A. Notwithstanding the provisions of § 24.2-416, a mail voter registration application returned through the United States Postal Service shall be deemed to have been made as of the date of the postmark affixed to such application by the United States Postal Service. If no such postmark is affixed or if the postmark affixed by the United States Postal Service is illegible or bears no date, such application shall be deemed to have been timely if received through the United States mail no later than five days following the time for the closing of the registration books pursuant to § 24.2-416.*

*B. In any other case, a completed mail voter registration application form shall be deemed timely*



*if received by any general registrar by the deadline provided for in § 24.2-416 for closing the registration books.*

§ 24.2-417. Persons to be registered.

Each registrar shall register every resident of his county or city who has the qualifications required by the Constitution of Virginia and this title and who applies for registration ~~in person or by absentee application as set forth in § 24.2-419,~~ at the time and in the manner required by law.

Any person, once properly registered, shall remain registered unless his registration is cancelled pursuant to Article 5 (§ 24.2-426 et seq.) of this chapter.

LD3014443

HOUSE JOINT RESOLUTION NO. 607

Offered January 23, 1995

Proposing amendments to Section 1 and Section 2 of Article II of the Constitution of Virginia, relating to franchise.

Patron—Scott

Referred to Committee on Rules

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendments to the Constitution of Virginia be, and the same hereby are, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 1 and Section 2 of Article II of the Constitution of Virginia, as follows:

ARTICLE II

FRANCHISE AND OFFICERS

Section 1. Qualifications of voters.

In elections by the people, the qualifications of voters shall be as follows: Each voter shall be a citizen of the United States, shall be eighteen years of age, shall fulfill the residence requirements set forth in this section, and shall be registered to vote pursuant to this article. No person who has been convicted of a felony shall be qualified to vote unless his civil rights have been restored by the Governor or other appropriate authority. As prescribed by law, no person adjudicated to be mentally incompetent shall be qualified to vote until his competency has been reestablished.

The residence requirements shall be that each voter shall be a resident of the Commonwealth and of the precinct where he votes. A person who is qualified to vote except for having moved his residence from one precinct to another may in the following November general election and in any intervening election vote in the precinct from which he has moved. Residence, for all purposes of qualification to vote, requires both domicile and a place of abode. The General Assembly may provide by law for alternative residence requirements for persons who are qualified to vote except for having moved their residence from one precinct to another within the Commonwealth. The General Assembly may also provide, in elections for President and Vice-President of the United States, alternatives to registration for new residents of the Commonwealth.

Any person who will be qualified with respect to age to vote at the next general election shall be permitted to register in advance and also to vote in any intervening primary or special election.

Section 2. Registration of voters.

The General Assembly shall provide by law for the registration of all persons otherwise qualified to vote who have met the residence requirements contained in this article, and shall ensure that the opportunity to register is made available. Registrations accomplished prior to the effective date of this section shall be effective hereunder. The registration records shall not be closed to new or transferred registrations more than thirty days before the election in which they are to be used.

Applications to register shall require the applicant to provide the following information on a standard form: full name, including the maiden and any other prior legal name; age; date and place of birth; social security number, if any; whether the applicant is presently a United States citizen; address and place of abode and date of residence in the precinct; place of any previous registrations to vote; and whether the applicant has ever been adjudicated to be mentally incompetent or convicted of a felony, and if so, under what circumstances the applicant's right to vote has been restored. The General Assembly shall provide by law for the information to be required on the application to register. All applications to register shall be completed by or at the direction of the applicant and signed by the applicant, unless physically disabled. No fee shall be charged to the applicant incident to an application to register.

Nothing in this article shall preclude the General Assembly from requiring as a prerequisite to registration to vote the ability of the applicant to read and complete in his own handwriting the

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1 application to register.

Official Use By Clerks			
<b>Passed By The House of Delegates</b>		<b>Passed By The Senate</b>	
without amendment	<input type="checkbox"/>	without amendment	<input type="checkbox"/>
with amendment	<input type="checkbox"/>	with amendment	<input type="checkbox"/>
substitute	<input type="checkbox"/>	substitute	<input type="checkbox"/>
substitute w/amdt	<input type="checkbox"/>	substitute w/amdt	<input type="checkbox"/>
Date: _____		Date: _____	
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Clerk of the House of Delegates		Clerk of the Senate	

