

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 24.2-103, 24.2-109, 24.2-671, 24.2-675, and 24.2-678 of the Code of*
3 *Virginia and to amend the Code of Virginia by adding a section numbered 24.2-1001.1, relating to*
4 *elections administration; duties of local electoral board; certification of election; grounds for removal;*
5 *civil penalty.*

6 [H 2277]

7 Approved

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That §§ 24.2-103, 24.2-109, 24.2-671, 24.2-675, and 24.2-678 of the Code of Virginia are amended and**
10 **reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-1001.1 as**
11 **follows:**

12 **§ 24.2-103. Powers and duties in general; report.**

13 A. The State Board, through the Department of Elections, shall supervise and coordinate the work of the
14 county and city electoral boards and of the registrars to obtain uniformity in their practices and proceedings
15 and legality and purity in all elections. Its supervision shall ensure that major risks to election integrity are (i)
16 identified and assessed and (ii) addressed as necessary to promote election uniformity, legality, and purity. It
17 shall make rules and regulations and issue instructions and provide information consistent with the election
18 laws to the electoral boards and registrars to promote the proper administration of election laws. Electoral
19 boards and registrars shall provide information requested by the State Board and shall follow (a) the elections
20 laws and (b) the rules and regulations of the State Board insofar as they do not conflict with Virginia or
21 federal law. The State Board shall post on the Internet within three business days any rules or regulations
22 made by the State Board. Upon request and at a reasonable charge not to exceed the actual cost incurred, the
23 State Board shall provide to any requesting political party or candidate, within three days of the receipt of the
24 request, copies of any instructions or information provided by the State Board to the local electoral boards
25 and registrars.

26 B. The State Board, through the Department of Elections, shall ensure that the members of the electoral
27 boards are properly trained to carry out their duties by offering training annually, or more often, as it deems
28 appropriate, and without charging any fees to the electoral boards for the training.

29 C. The State Board, through the Department of Elections, shall conduct a certification program for the
30 general registrars and shall require each general registrar to receive certification through such program from
31 the Department within 12 months of his initial appointment or any subsequent reappointment. The State
32 Board may grant a waiver requested by a local electoral board to extend, on a case-by-case basis, this
33 deadline by up to three months. The State Board shall develop a training curriculum for the certification
34 program and standards for completing the program and maintaining certification, including required hours of
35 annual training. No fees shall be charged to a general registrar for any required training as part of the
36 certification program. The State Board shall review the certification program every four years, or more often
37 as it deems appropriate.

38 D. The State Board shall set the training standards for the officers of election and shall develop
39 standardized training programs for the officers of election to be conducted by the local electoral boards and
40 the general registrars. Training of the officers of election shall be conducted and certified as provided by §
41 24.2-115.2. The State Board shall provide standardized training materials for such training and shall also
42 offer on the Department of Elections website a training course for officers of election. The content of the
43 online training course shall be consistent with the standardized training programs developed pursuant to this
44 section. The State Board shall review the standardized training materials and the content of the online training
45 course every two years in the year immediately following a general election for federal office.

46 E. The State Board may institute proceedings pursuant to § 24.2-234.1 for the removal of any member of
47 an electoral board or general registrar who fails to discharge the duties of his office in accordance with law.
48 Such action shall require a recorded majority vote of the Board.

49 *The State Board shall institute removal proceedings against any member of an electoral board who*
50 *neglects or refuses to carry out any clear ministerial duty of the office in accordance with law.*

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

54 G. The Department of Elections shall supervise its own staff to assure that no member of its staff shall
55 serve (i) as the chairman of a political party or other officer of a state-, local-, or district-level political party
56 committee or (ii) as a paid or volunteer worker in the campaign of a candidate for nomination or election to

an office filled by election in whole or in part by the qualified voters of the Commonwealth.

H. The Department of Elections shall employ a Director of Operations who shall be responsible for managing the day-to-day operations at the Department of Elections and ensuring (i) fulfillment of the Department's mission and responsibilities; (ii) compliance with state and federal election laws and regulations; and (iii) compliance with the Department's business, administrative, and financial policies. This position shall be a full-time classified position subject to the Virginia Personnel Act (§ 2.2-2900 et seq.).

I. The State Board shall adopt a seal for its use and bylaws for its own proceedings.

J. The State Board shall submit an annual report to the Governor and the General Assembly on the activities of the State Board and the Department of Elections in the previous year. Such report shall be governed by the provisions of § 2.2-608.

§ 24.2-109. Appointment and removal of general registrar and officers of election; powers and duties in general.

A. Each electoral board shall appoint the general registrar for its city or county and officers of election for each precinct who shall serve in all elections, including town elections, as provided in this chapter. The secretary of the electoral board shall promptly notify each appointee of his appointment.

The electoral board by a recorded majority vote may (i) institute proceedings pursuant to § 24.2-234.1 for the removal of any general registrar who fails to discharge the duties of his office according to law or (ii) remove from office, on notice, any officer of election who fails to discharge the duties of his office according to law.

The electoral board shall remove from office, on notice, any general registrar who fails to receive or maintain certification as required by the State Board pursuant to subsection C of § 24.2-103.

B. The electoral board shall perform the duties assigned by this title including, ~~but not limited to,~~ the preparation of ballots, the administration of absentee ballot provisions, the conduct of the election, and the ascertaining *and certification* of the results of the election. *Such duties are a clear, ministerial duty of the office and nondiscretionary and the neglect of any such duty, or the refusal to perform such duty in accordance with law, shall be grounds for removal pursuant to § 24.2-234.1.*

§ 24.2-671. Electoral board to meet and ascertain results; conclusiveness of results.

A. Each electoral board shall meet at the clerk's or general registrar's office of the county or city for which they are appointed at or before 5:00 p.m. on the day after any election. The board may adjourn to another room of sufficient size in a public building to ascertain the results, and may adjourn as needed, not to exceed 10 calendar days from the date of the election unless an extension has been granted to accommodate a risk-limiting audit conducted pursuant to § 24.2-671.2. Written directions to the location of any room other than the clerk's or general registrar's office where the board will meet shall be posted at the doors of the clerk's and general registrar's offices prior to the beginning of the meeting.

If the electoral board has exercised the option provided by § 24.2-668 for delivery of the election materials to the office of the general registrar on the night of the election, the electoral board shall meet at the office of the general registrar at or before 5:00 p.m. on the day after any election.

B. The board shall open the returns delivered by the officers and *shall* ascertain from ~~the~~ *such* returns the total votes in the county or city, or town in a town election, for each candidate and for and against each question ~~and~~. *The board shall* complete the abstract of votes cast at such election, as provided for in § 24.2-675.

For any office in which no person was elected by write-in votes, and for which the total number of write-in votes for that office is less than (i) 10 percent of the total number of votes cast for that office and (ii) the total number of votes cast for the candidate receiving the most votes, the electoral board shall ascertain the total votes for each write-in candidate for the office within one week following the election. For offices for which the electoral board issues the certificate of election, the result so ascertained, signed and attested, shall be conclusive and shall not thereafter be subject to challenge except as specifically provided in Chapter 8 (§ 24.2-800 et seq.).

Once the result is so ascertained, the secretary of the electoral board shall deliver one copy of each statement of results to the general registrar to be available for inspection when his office is open for business. The secretary shall then return all pollbooks, any printed inspection and return sheets, and one copy of each statement of results to the clerk.

C. A report of any changes made by the local electoral board to the unofficial results ascertained by the officers of election or any subsequent change to the official abstract of votes made by the local electoral board shall be forwarded to the State Board of Elections and the explanation of such change shall be posted on the State Board website.

D. Each political party and each independent candidate on the ballot, or each primary candidate, shall be entitled to have representatives present when the local electoral board meets to ascertain the results of the election. Each such party and candidate shall be entitled to have at least as many representatives present as there are teams of officials working to ascertain the results, and the room in which the local electoral board meets shall be of sufficient size and configuration to allow the representatives reasonable access and proximity to view the ballots as the teams of officials work to ascertain the results. The representatives and

observers lawfully present shall be prohibited from interfering with the officials in any way. It is unlawful for any person to knowingly possess any firearm as defined in § 18.2-308.2:2 within 40 feet of any building, or part thereof, used as a meeting place for the local electoral board while the electoral board meets to ascertain the results of an election, unless such person is (a) any law-enforcement officer or any retired law-enforcement officer qualified pursuant to subsection C of § 18.2-308.016; (b) occupying his own private property that falls within 40 feet of a polling place; or (c) an armed security officer, licensed pursuant to Article 4 (§ 9.1-138 et seq.) of Chapter 1 of Title 9.1, whose employment or performance of his duties occurs within 40 feet of any building, or part thereof, used as a meeting place for the local electoral board while the electoral board meets to ascertain the results of an election.

E. If any local electoral board fails or refuses to perform any duty required by subsection A or B, the State Board shall be authorized to intervene and carry out such duties in accordance with law.

§ 24.2-675. Abstracts of votes to be made by secretary and forwarded to State Board and to clerks.

A. As soon as the electoral board determines the persons who have received the highest number of votes for any office, the secretary shall make out an abstract of the votes for each of the following: Governor; Lieutenant Governor; Attorney General; members of the Senate of Virginia; members of the House of Delegates; members of the United States Senate; members of the United States House of Representatives; electors of the President and Vice President of the United States; each county office; each city office; each district office; each town office; and such others as may be required for statewide referenda. The abstracts shall contain the names of all persons receiving any vote for each office and the total number of votes received by each person or for or against each question. However, if no person was elected by write-in votes and the total number of write-in votes for any office is less than (i) 10 percent of the total number of votes cast for that office and (ii) the total number of votes cast for the candidate receiving the most votes, the abstract shall contain only the total number of write-in votes and not the number of write-in votes for each person receiving write-in votes.

B. ~~The electoral board shall certify and sign the abstracts shall be certified and signed by the electoral board, which shall then be attested by the secretary, and retained by the electoral board as part of its records.~~ A copy of each, certified under the official seal of the electoral board, shall immediately be mailed or delivered by hand to the State Board. The State Board shall require the electoral board of any county or city to correct any errors found on such abstracts prior to completing the requirements of § 24.2-679.

C. One certified copy of each abstract of votes shall be forwarded (i) to the clerk of the city council or board of supervisors and recorded in its record book, (ii) for town elections, to the clerk of the town council and recorded in its minute book, and (iii) for each local referendum, to the circuit court for the locality.

D. If any local electoral board fails or refuses to perform any duty required by this section, the State Board shall be authorized to intervene and carry out such duties in accordance with law, before proceeding to complete the requirements of § 24.2-679.

§ 24.2-678. Law-enforcement officer to be sent for abstracts not forwarded.

If the State Board has not received the abstracts of votes from any county or city within 10 days after any election, it shall dispatch a law-enforcement officer to obtain a *certified* copy of the abstract from ~~the~~ an official having charge thereof. That official shall immediately, on demand of the officer, make out and deliver to him the copy required, and the officer shall deliver the abstract to the State Board without delay. *Upon receipt of such abstracts, the State Board shall proceed with its duties under § 24.2-679.*

§ 24.2-1001.1. Failure or refusal to certify election; civil penalty.

In addition to any other penalties provided by law, any member of an electoral board who fails or refuses to certify the results of an election is subject to a civil penalty in an amount not exceeding \$1,000. Such civil penalty shall be payable to the Voter Education and Outreach Fund established pursuant to § 24.2-131.