

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact §§ 24.2-653.01 and 24.2-654 of the Code of Virginia and to amend the Code of*  
 3 *Virginia by adding a section numbered 24.2-709.2, relating to election results; counting machine-*  
 4 *readable ballots.*

5 [H 968]

6 Approved

7 **Be it enacted by the General Assembly of Virginia:**8 **1. That §§ 24.2-653.01 and 24.2-654 of the Code of Virginia are amended and reenacted and that the**  
 9 **Code of Virginia is amended by adding a section numbered 24.2-709.2 as follows:**10 **§ 24.2-653.01. Provisional ballots; electoral boards to make determination as to validity.**

11 A. The electoral board shall meet on the day following the election and determine whether each person  
 12 having submitted a provisional vote pursuant to § 24.2-653 was entitled to do so as a qualified voter in the  
 13 precinct in which he offered the provisional vote. In the case of persons voting provisionally pursuant to  
 14 § 24.2-653.3, the electoral board shall determine of which district the person is a qualified voter. At the  
 15 meeting, the voter may request an extension of the determination of the provisional vote in order to provide  
 16 information to prove that the voter is entitled to vote in the precinct pursuant to § 24.2-401. The electoral  
 17 board shall have the authority to grant such extensions that it deems reasonable to determine the status of a  
 18 provisional vote.

19 If the board is unable to determine the validity of all the provisional ballots offered in the election, or has  
 20 granted any voter who has offered a provisional ballot an extension, the meeting shall stand adjourned, not to  
 21 exceed 10 calendar days from the date of the election, until the board has determined the validity of all  
 22 provisional ballots offered in the election.

23 B. The electoral board shall permit one authorized representative of each political party or independent  
 24 candidate in a general or special election or one authorized representative of each candidate in a primary  
 25 election to remain in the room in which the determination is being made as an observer so long as he does not  
 26 participate in the proceedings and does not impede the orderly conduct of the determination. Each authorized  
 27 representative shall be a qualified voter of any jurisdiction of the Commonwealth. Each representative, who is  
 28 not himself a candidate or party chairman, shall present to the electoral board a written statement designating  
 29 him to be a representative of the party or candidate and signed by the county or city chairman of his political  
 30 party, the independent candidate, or the primary candidate, as appropriate. If the county or city chairman is  
 31 unavailable to sign such a written designation, such a designation may be made by the state or district  
 32 chairman of the political party. However, no written designation made by a state or district chairman shall  
 33 take precedence over a written designation made by the county or city chairman. Such statement, bearing the  
 34 chairman's or candidate's original signature, may be photocopied and such photocopy shall be as valid as if  
 35 the copy had been signed.

36 Notwithstanding the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.),  
 37 attendance at meetings of the electoral board to determine the validity of provisional ballots shall be  
 38 permitted only for the authorized representatives provided for in this subsection, for the persons whose  
 39 provisional votes are being considered and their representative or legal counsel, and for appropriate staff and  
 40 legal counsel for the electoral board.

41 C. If the electoral board determines that such person was not entitled to vote as a qualified voter in the  
 42 precinct or district in which he offered the provisional vote, is unable to determine his right to vote, or has not  
 43 been provided one of the forms of identification specified in subsection B of § 24.2-643, or the signed  
 44 statement that the voter is the named registered voter he claims to be, the envelope containing his ballot shall  
 45 not be opened and his vote shall not be counted. The general registrar shall notify in writing pursuant to  
 46 § 24.2-114 those persons found not properly registered or whose provisional vote was not counted.

47 The provisional vote shall be counted if (i) such person is entitled to vote in the precinct pursuant to  
 48 § 24.2-401 or (ii) the Department of Elections or the voter presents proof that indicates the voter submitted an  
 49 application for registration to a state-designated voter registration agency or the voter's information was  
 50 transmitted by the Department of Motor Vehicles to the Department of Elections pursuant to § 24.2-411.3  
 51 prior to the close of registration pursuant to § 24.2-416 and the registrar determines that the person was  
 52 qualified for registration based upon the application for registration submitted by the person pursuant to  
 53 subsection B of § 24.2-652.

54 If the electoral board determines that such person was entitled to vote, the name of the voter shall be  
 55 entered in a provisional votes pollbook and marked as having voted, the envelope shall be opened, and the  
 56 ballot shall be placed in a ballot container without any inspection further than that provided for in § 24.2-646.

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57 D. On completion of its determination, the electoral board shall proceed to count such ballots and certify  
58 the results of its count. Its certified results shall be added to those found pursuant to § 24.2-671. No  
59 adjustment shall be made to the statement of results for the precinct in which the person offered to vote.  
60 However, any voter who cast a provisional ballot and is determined by the electoral board to have been  
61 entitled to vote shall have his name included on the list of persons who voted that is submitted to the  
62 Department of Elections pursuant to § 24.2-406.

63 *If, in the processing and counting of provisional ballots, any machine readable ballot is damaged or*  
64 *defective such that it cannot properly be counted by the electronic voting systems, a true duplicate copy shall*  
65 *be made of the damaged or defective ballot by a team of election officials representing both parties. The*  
66 *duplicate ballot shall be substituted for the damaged ballot. Every duplicate ballot shall be clearly labeled as*  
67 *such and shall bear an identifier that shall be recorded on the damaged ballot.*

68 E. The certification of the results of the count together with all ballots and envelopes, whether open or  
69 unopened, and other related material shall be delivered by the electoral board to the clerk of the circuit court  
70 and retained by him as provided for in §§ 24.2-668 and 24.2-669.

71 **§ 24.2-654. Officers to lock and seal voting equipment and ascertain vote after polls closed;**  
72 **statement of results.**

73 As soon as the polls are closed, the officers of election shall lock each voting and counting machine  
74 against further voting. They shall then proceed to ascertain the vote given at the election and continue without  
75 adjournment until they declare the results of the election. They shall seal the machines.

76 In ascertaining the vote, the officers of election shall complete a statement of results in duplicate on the  
77 form and in the manner prescribed by the State Board.

78 *In ascertaining the vote, the officers of election shall use ballot scanner machines to count machine-*  
79 *readable ballots. The officers shall not count machine-readable ballots by hand unless (i) the ballot scanner*  
80 *machine is inoperative, (ii) there is no other available scanner, and (iii) it would be unreasonable to wait for*  
81 *(a) the inoperative ballot scanner to be made operative or (b) an operative ballot scanner machine to be*  
82 *delivered to the polling place rather than hand counting the ballots.*

83 **§ 24.2-709.2. Processing absentee ballots; duplication of damaged or defective ballots.**

84 *If, in the processing and counting of absentee ballots, any machine readable ballot is damaged or*  
85 *defective such that it cannot properly be counted by the electronic voting systems, a true duplicate copy shall*  
86 *be made of the damaged or defective ballot by a team of election officials representing both parties. The*  
87 *duplicate ballot shall be substituted for the damaged ballot. Every duplicate ballot shall be clearly labeled as*  
88 *such and shall bear an identifier that shall be recorded on the damaged ballot.*

89 **2. That the provisions of this act shall become effective on September 1, 2026.**