

HOUSE BILL NO. 998

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Privileges and Elections

on \_\_\_\_\_)

(Patrons Prior to Substitute--Delegates Anthony and Sickles [HB 1238])

A BILL to amend and reenact §§ 24.2-653.01, 24.2-671, and 24.2-678 of the Code of Virginia, relating to conduct of elections; local electoral boards; certification and abstract of results; deadline.

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

**1. That §§ 24.2-653.01, 24.2-671, and 24.2-678 of the Code of Virginia are amended and reenacted as follows:**

**§ 24.2-653.01. Provisional ballots; electoral boards to make determination as to validity.**

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

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

B. The electoral board shall permit one authorized representative of each political party or independent candidate in a general or special election or one authorized representative of each candidate in a primary election to remain in the room in which the determination is being made as an observer so

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

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

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

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

54 the person was qualified for registration based upon the application for registration submitted by the  
55 person pursuant to subsection B of § 24.2-652.

56 If the electoral board determines that such person was entitled to vote, the name of the voter shall  
57 be entered in a provisional votes pollbook and marked as having voted, the envelope shall be opened, and  
58 the ballot shall be placed in a ballot container without any inspection further than that provided for in §  
59 24.2-646.

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

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

69 **§ 24.2-671. Electoral board to meet and ascertain results; conclusiveness of results.**

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

77 ~~The board shall open the returns delivered by the officers.~~

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

81           B. The board shall open the returns delivered by the officers and ascertain from the returns the  
82 total votes in the county or city, or town in a town election, for each candidate and for and against each  
83 question and complete the abstract of votes cast at such election, as provided for in § 24.2-675. For any  
84 office in which no person was elected by write-in votes, and for which the total number of write-in votes  
85 for that office is less than (i) 10 percent of the total number of votes cast for that office and (ii) the total  
86 number of votes cast for the candidate receiving the most votes, the electoral board shall ascertain the total  
87 votes for each write-in candidate for the office within one week following the election. For offices for  
88 which the electoral board issues the certificate of election, the result so ascertained, signed and attested,  
89 shall be conclusive and shall not thereafter be subject to challenge except as specifically provided in  
90 Chapter 8 (§ 24.2-800 et seq.).

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

95           ~~Beginning with the general election in November 2007, a~~ C. A report of any changes made by the  
96 local electoral board to the unofficial results ascertained by the officers of election or any subsequent  
97 change to the official abstract of votes made by the local electoral board shall be forwarded to the State  
98 Board of Elections and the explanation of such change shall be posted on the State Board website.

99           D. Each political party and each independent candidate on the ballot, or each primary candidate,  
100 shall be entitled to have representatives present when the local electoral board meets to ascertain the results  
101 of the election. Each such party and candidate shall be entitled to have at least as many representatives  
102 present as there are teams of officials working to ascertain the results, and the room in which the local  
103 electoral board meets shall be of sufficient size and configuration to allow the representatives reasonable  
104 access and proximity to view the ballots as the teams of officials work to ascertain the results. The  
105 representatives and observers lawfully present shall be prohibited from interfering with the officials in  
106 any way. It is unlawful for any person to knowingly possess any firearm as defined in § 18.2-308.2:2  
107 within 40 feet of any building, or part thereof, used as a meeting place for the local electoral board while

