

#### 2020 Changes to Virginia's Election Laws

The following legislation was passed during the 2020 Session of the General Assembly, signed by the Governor, and will go into effect on July 1, 2020 (unless otherwise noted). This legislation is likely to affect the operations of general registrars, electoral board members, constituents, candidates, the Department of Elections (ELECT), and all who are part of the elections community.

The summaries were prepared by the Policy Division of ELECT. These are only summaries providing highlights of the legislation and are not intended to be a full accounting of the changes from every bill. Complete information on these bills is available on the <u>Legislative Information System</u> (http://lis.virginia.gov).

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#### **Absentee Voting**

HB 1 and SB 111 – Absentee Voting; no excuse required.

Effective date: July 1, 2020

These bills are identical and eliminate all excuses previously required for a voter to be eligible to vote by absentee ballot. This allows any otherwise qualified voter to vote in person or by mail up to 45 days before the election. The bills make an exception for special elections when timing does not allow for 45 days of absentee voting. The language maintains the requirement (passed in 2019) that in-person absentee voting, or "early voting," be available on the last two Saturdays before the election in all elections.

HB 207 – Absentee voting; no excuse required, permanent absentee voter list.

Effective date: July 1, 2021

Please note the effective date on this bill. The bill is similar to HB 240, but does not go into effect until July 1, 2021. This bill changes the "annual absentee list" into a permanent absentee list. Voters can apply to be added to the permanent list and receive absentee ballots for all elections in which they are eligible to participate. The voter stays on the permanent list and can only be removed for the following reasons:

- the voter requests in writing to be removed,
- their registration is cancelled or placed on an inactive status,
- a ballot is sent to them and is returned as undeliverable, or
- the voter moves to a new address in a different locality.

#### HB 220 – Absentee voting; postage prepaid on return envelope.

Effective date: The bill only becomes effective if passed again in the 2021 General Assembly Session.

If this bill is passed again in the 2021 General Assembly Session, it will require that the envelopes provided to absentee voters for the return of their absentee ballot include prepaid postage. The locality will be responsible for the costs.



HB 238 and SB 455 – Absentee voting; deadline for returning absentee ballot.

Effective date: July 1, 2020

This bill changes the deadline for a voter to return an absentee ballot by mail or commercial delivery service. As long as the postmark or other indication of mailing or sending the ballot via commercial deliver service indicates that the ballot was mailed by Election Day, the ballot can still be counted if received by the General Registrar by noon on the third day after the election (same deadline as ID Provisional).

HB 239 – Absentee voting; extends deadline for applying for an absentee ballot cast other than in person.

Effective date: July 1, 2020

This bill changes the deadline for a voter requesting to vote by mailed absentee ballot from 7 days to 11 days before Election Day. Prior to enactment of this law, the deadline was 5:00pm on the Tuesday before Election Day. With the new law, the deadline will be 5:00pm on the second Friday before Election Day.

HB 240 – Absentee voting; annual applications for eligible absentee voters.

Effective date: July 1, 2020

This bill removes language requiring applicants for annual absentee ballots to report a disability or illness in order to qualify to be added to the annual absentee list. It also removes the requirement that an applicant have a physician sign the statement with their first application. The law still requires that the General Registrar send a renewal application to everyone on the annual absentee list by December 15, 2020. This bill is similar to HB 207 (above). This bill goes into effect before HB 207 and the annual absentee list will transition into the permanent absentee list once HB 207 becomes effective.

HB 242 – Absentee voting; emergency voting.

Effective date: July 1, 2020

This bill revises the deadline for voter applications for emergency absentee voting, allowing an otherwise qualified voter who fits within the stated emergency situations to request to vote absentee either in person or through a designated representative at any time prior to 2pm on the day before Election Day.

HB 872 – Voter registration by mail; certain first-time voters permitted to vote by absentee ballot.

Effective date: July 1, 2020

While this bill deals with voter registration and makes changes to Chapter 4 of Title 24.2, it is primarily concerned with absentee voting. Unless explicitly exempted, voters who register to vote by mail-in application in a jurisdiction where they have never voted before are required to vote in person for their



first election, either at the polls on Election Day or in-person absentee if it is a state election rather than federal. This bill adds incarcerated individuals who are awaiting trial or have been convicted of a misdemeanor to the list of exemptions in Va. Code § 24.2-416.1.

SB 617 – Absentee voting; voter satellite offices for absentee voting in person.

Effective date: July 1, 2020

This law changes the authority for establishing satellite offices from the Electoral Board to the locality governing body. Satellite offices, or vote centers, must be created, changed, or abolished by ordinance in the same manner as polling places. The vote centers must be in publicly owned or leased buildings and, if created, are required to be funded by the locality. Advanced notice of enactments relating to vote centers must be published in a local newspaper of general circulation once a week for two (2) weeks prior to adoption, and the vote centers cannot be created, changed, or abolished within 60 days of the next General Election. In the event an emergency makes the vote center unusable or inaccessible, electoral boards or general registrars must provide an alternative vote center location, subject to approval by the State Board of Elections.

SB 859 – Absentee voting; emergency absentee voting by and late applications for persons hospitalized; definition of hospital.

Effective date: July 1, 2020

This law changes the definition of hospital as it is used in the emergency absentee ballot provisions to include hospitals located outside Virginia, Washington, D.C., and contiguous states.

#### Campaigns and Campaign Finance

HB 88 – Elections; campaign finance; filing schedule for persons with multiple campaign committees.

Effective date: July 1, 2020

This bill requires that persons who are named as the candidate on multiple campaign committees at the same time file separate campaign finance disclosure reports for each committee on the same schedule as reports due for the current election. Note however, that under current Virginia law, an individual cannot be named as a candidate for more than one campaign committee unless one committee is for statewide office.

HB 849 – Political campaign advertisements; disclosure requirements; advertisements placed or promoted.

Effective date: July 1, 2020

This bill amends various campaign advertisement disclosure requirements to include ads placed on online platforms and social media sites like Facebook. Video and audio advertisements placed on an



online platform are made subject to the same disclosure requirements as TV and radio ads, respectively. Before buying or promoting an online political ad on an online platform, the submitting person must identify themselves to the online platform as a certified political advertiser acting lawfully under all applicable state and local laws. The bill also requires an online platform to establish reasonable procedures to enable online political advertisers to comply with those identification and certification requirements.

HB 1061 – Campaign finance; committee depositories and reimbursement.

Effective date: July 1, 2020

This bill allows candidates or campaign finance committee treasurers to use debit cards linked to campaign committee bank accounts to pay for or reimburse campaign related expenses. Previously, only checks could be used.

HB 1062 – Political campaign advertisements; definition of campaign telephone calls, etc.

Effective date: July 1, 2020

This bill adds text messages to the definition of "campaign telephone calls" and generally adds a "telephone call" term, which includes text messages as well, to the list of covered practices that are subject to the disclosure requirements for campaign and political advertisements.

HB 1238 – Political campaign advertisements; print media requirements.

Effective date: January 1, 2024

This bill changes the font size required for Stand by Your Ad disclosure text displayed on political ads from the currently stated, uniform 7 point font to generally proportionate to the size of the ad, with specific standards of compliance being left for the State Board to determine by regulation. Ads are not subject to this bill's changes until July 1, 2024. Any ad printed prior to July 1, 2024 are not subject to the new requirements.

HB 1556 – Political campaign advertisements; disclosures, authorization statement.

Effective date: January 1, 2021

This bill amends the Stand by Your Ad disclosure requirements for covered political advertisements to mandate that the name displayed on an ad to indicate it's sponsor match the name that will be listed on the ballot, in the case of a candidate sponsor, or that is listed on the statement of organization, in the case of a campaign committee sponsor. Any ad paid for or printed prior to January 1, 2021 is not subject to this new requirement.



SB 57 – Campaign finance reports; electronic filing requirements; local and constitutional offices.

Effective date: January 1, 2021

This bill requires candidates for local and constitutional offices to file their campaign finance reports electronically to the State Board. Under current law, unless a local or constitutional office candidate is for a locality with a population above 70,000, electronic filing of such reports is merely optional. In effect this bill would make general registrars only responsible for receiving former candidate's final reports who are no longer seeking election.

SB 217 – Campaign finance; reporting certain contributions received immediately prior to legislative session.

Effective date: July 1, 2020

This bill requires any statewide office holder or member of the General Assembly who has knowingly received or reported any single contribution of \$1,000 or more between January 1st and the day immediately before the 1st day of a regular session of the General Assembly to file a campaign finance report with the State Board of Elections by January 15th. These contributions must also be reported on the candidate's 1st regular report following the date of the contribution.

SB 979 – Campaign Finance Disclosure Act of 2006; applicability to nominations for directors of soil and water conservation districts.

Effective date: July 1, 2020

This bill removes candidates for director of soil and water conversation districts from the listed exemptions from the Campaign Finance Disclosure Act of 2006. Candidates for those offices are now required to file campaign finance reports and make advertisement disclosures as all other candidates subject to that Act would. If a candidate will not accept, solicit or contribute more than \$1,000 over the course of their campaign, they can seek an exemption from these requirements.

#### Candidates and Parties

HB 214 – Candidate petitions; residency of petition circulators, signed statement required for nonresident.

Effective date: July 1, 2020

The bill requires all non-residents of Virginia who are circulating a petition and gathering signatures be required to sign an affidavit stating they consent to jurisdiction in Virginia courts for all matters concerning the petition. If a circulator does not sign such an affidavit, or later fails to appear or produce documents when properly served a subpoena, the signatures they gathered will not count towards the overall minimum number of signatures required.



SB 469 – Primary ballot; certain required statements as qualification for candidacy; failure to timely file.

Effective date: July 1, 2020

This bill provides that any person who does not file their written statement of qualification or statement of economic interests by the statutory deadline, or by the end of an extension period so granted by the State Board, shall not be printed on the primary election ballot.

#### Code Commission

SB 442 – Polling place activities; reorganization of sections; technical amendments.

Effective date: July 1, 2020

This bill rearranges existing language and makes technical amendments to the Code language causing no substantive policy changes.

SB 443 – Provisional voting; reorganization of sections, technical amendments.

Effective date: July 1, 2020

This bill rearranges existing language and makes technical amendments to the Code language causing no substantive policy changes.

SB 444 – Election recounts; reorganization of sections; technical amendments.

Effective date: July 1, 2020

This bill rearranges existing language and makes technical amendments to the Code language causing no substantive policy changes.

#### Department of Elections and State Board of Elections

HB 232 – Mail voter registration application forms; distribution to certain public and private institutions.

Effective date: July 1, 2020

This bill requires the Department to provide a reasonable number of mail voter registration application forms to each public institution of higher education, nonprofit private institutions of higher education that is eligible to participate in the Tuition Assistance Grant Program, and other entities authorized to issue specified bonds. It also requires the State Council of Higher Education to provide the Department with a list of all such institutions and request that those institutions make these application forms available to students.



HB 236 and SB 856 – Elections, State Board of; increasing membership and terms, role and eligibility, report.

Effective date: January 1, 2021

This bill increases the number of members on the State Board of Elections from 3 to 5, with 3 members being of the same political party as the governor. It provides that members be appointed with considerations to geographical representation so that no 2 Board members are from the same congressional district. Members will serve 4 year terms which will be staggered with 3 members' terms expiring January 31, 2022, and 2 members' terms expiring January 31, 2025. The bill also requires that the Governor designate 2 members from opposite parties as chair and vice-chair, respectively. Additionally, the bill clarifies and codifies the qualifications, appointment process, duties and responsibilities of the Commissioner of Elections as the principal administration officer of the Department of Elections.

HB 500 and SB 466 – Registered voters; lists provided at no charge to courts of the Commonwealth.

Effective date: July 1, 2020

This bill would require the Department of Elections to provide Virginia and federal courts with lists of registered voters for their districts for jury selection purposes free of charge no more than 2 times in a 12 month period. If lists are requested more than 2 times in the same 12 month period, the Department will charge a reasonable fee as they do to all other parties.

HB 539 – Elections, State Board of; activities related to the supervision of local electoral boards and general registrars.

Effective date: July 1, 2020

This bill imposes an additional duty to the State Board of Elections to supervise local electoral boards and general registrars and ensure that major risks to election integrity are identified, assessed, and addressed as necessary to promote electoral uniformity, legality and purity.

HB 540 – Elections administration; Department of Elections to employ Director of Operations.

Effective date: July 1, 2020

This bill requires the Department of Elections to hire a Director of Operations to manage its day-to-day operations, which would be a full-time classified position. The Director is responsible for ensuring the Department fulfills its mission and duties; complies with state and federal election laws and regulations; and complies with the Department's business, administrative, and financial policies.



HB 1362 – General Registrars; certification requirement, removal from office.

Effective date: July 1, 2020

This bill requires the State Board to develop and implement a general registrar certification program that is required to be completed within 12 months of their initial appointment or subsequent reappointment, unless the State Board grants a waiver requested by a local electoral board that can extend the deadline by up to 3 months. If a registrar fails to receive or maintain their certification, they shall be removed from office by the electoral board. The program's standards and curriculum, and the number of annual training hours required for certification maintenance will be determined by the State Board, while the program itself will be administered by the Department of Elections. No fees are charged to general registrars as part of the program, and any reasonable costs incurred to fulfill this requirement shall be reimbursed by the locality. The State Board shall review the program every four years or more frequently if it believes that is appropriate.

#### **Election Day Procedures**

HB 43 – Provisional voting; persons voting in split precincts.

Effective date: July 1, 2020

This bill allows any voter who is assigned to a precinct that is split between two or more election districts and who believes he was given a ballot for the wrong district to request and be permitted to cast a provisional ballot for the district of which he believes he is a qualified voter and for the district in which the pollbook indicates he is registered. The bill requires the ballots to be sealed in envelopes labeled with the corresponding district number and then sealed in the green envelope provided for all provisional ballots. At the meeting to determine the validity of all provisional ballots offered in the election, the electoral board shall verify in which district the voter is qualified and count that ballot.

#### HB 108 and SB 601 – Legal holidays; Election Day

Effective date: July 1, 2020

This bill removes Lee-Jackson Day, which was the 3rd Monday in January, from the list of legal holidays and adds Election Day, the Tuesday immediately following the 1st Monday in November.

HB 1402 – Polling place procedures; residence address of voter not announced.

Effective date: July 1, 2020

This bill removes the requirement that officers of election repeat out loud the residence address of a voter offering to vote, but makes clear that officers are still required to state the voter's full name as provided by the voter.



HB 1421 – Pollbooks; requirement for printed copies of pollbooks.

Effective date: July 1, 2020

This bill requires the general registrars of each county and city to provide every precinct with a printed copy of the pollbook for that jurisdiction in advance of every primary and general election. The bill also clarifies that the responsibilities regarding the delivery and maintenance of pollbooks statewide falls on the Department of Elections, not the State Board as the law currently states.

#### HB 1678 – Election day; extending polling place hours from 7:00pm to 8:00pm.

Effective date: The bill only becomes effective if passed again in the 2021 General Assembly Session.

Currently polling place hours end at 7:00 p.m. on Election day. This bill pushes the closing time back 1 hour to 8:00 p.m. This bill doesn't take effect unless reenacted by the General Assembly in 2021.

#### SB 316 – Elections; date of June primary election.

Effective date: The bill only becomes effective if passed again in the 2021 General Assembly Session.

This bill changes the date for holding June primary elections from the 2nd Tuesday to the 3rd Tuesday in June. It also changes the deadline for filing nomination and candidacy papers for an office determined by a November general election from the 2nd Tuesday to the 3rd Tuesday in June. The bill only becomes effective if passed again in the 2021 General Assembly Session.

#### **Election Officers**

HB 186 – Election day page program; central absentee voter precinct.

Effective date: July 1, 2020

This bill removes the prohibition against a high school student who is participating in the Election Day page program from being present in a central absentee voter precinct. Prior to this bill, central absentee voter precincts were the only polling places where such pages were not permitted to be.

HB 196 – Employment discrimination; prohibition against electoral board members and assistant general registrars for Election Day service; penalty.

Effective date: July 1, 2020

This bill prohibits local election board members, general registrars and assistant general registrars, or election officers from being subjected to any adverse personnel or employment actions on account of their service at a polling place on Election Day or attendance at electoral board meetings thereafter to determine the results, so long as they gave their employer reasonable notice. Any person who serves for 4 or more hours, including travel time, on their day of service shall not be required to start any work shift that starts on or after 5 p.m. on the day of service or before 3 a.m. on the day after the day of service. Employers who violate this provision are guilty of Class 3 misdemeanor.



HB 202 – Officers of election; timing of additional training following change in law or regulation.

Effective date: July 1, 2020

This bill amends the provision which provides for election officers to receive additional training after a change in election procedures is made to require that all relevant individuals impacted by a change receive such training no later than 3 days prior to the first election occurring in the locality after the law or regulation has taken effect. Under the old language, additional training is only required to be done before the next November general election.

HB 237 – Electoral boards, local; terms to begin January 1.

Effective date: July 1, 2020

This bill changes the start date for local electoral board members to January 1st. The language also changes related dates for political party nomination and judicial selection. If a member's term is set to expire and an election has not been certified or there is a pending recount, that member's term is extended until the election is certified or the recount has concluded.

HB 1285 and SB 737 – Local electoral boards; office vacated if board member ceases to be qualified voter of county, etc.

Effective date: July 1, 2020

This bill requires that all members of local electoral boards be qualified voters of that locality, and if any member ceases to be a qualified voter of the locality, their office shall be deemed vacant and filled by someone else in accordance with statutory procedure.

#### Miscellaneous

HB 146 – Sample ballots; color of paper of unofficial sample ballots.

Effective date: July 1, 2020

This bill allows sample ballots to be printed on yellow paper (which was previously barred), but otherwise retains all of the currently existing requirements and limits on sample ballots.

HB 1053 – Voting systems; voter-verifiable paper record.

Effective date: July 1, 2020

This bill mandates that all voting machines/systems used in the Commonwealth produce a printed, paper ballot that is retained.



HB 1086 and SB 555 – Voting; restrictions on the basis of race.

Effective date: July 1, 2020

These bills repeal several discriminatory Acts from the Code of Virginia that provided for a state poll tax and separate registration records on the basis of race. The laws that are repealed by these bills were already unenforceable.

HB 1210 – Minority language accessibility; voting and election materials.

Effective date: September 1, 2021

This bill largely mirrors a similar provision in the federal Voting Rights Act pertaining to availability of minority language election materials at the state level. Covered localities will be required to provide election materials in the applicable minority group's language, including but not limited to voter registration documents and notices; voting forms, assistance, and instructions; voter information pamphlets; ballots and sample ballots; notices of elections; and changes to district boundaries or polling places. To be covered, a locality must have either: a single language minority who cannot sufficiently speak or understand English make up 5% of their voting age population; 10,000 of their voting age citizen population are from a single language minority population; or, where a locality includes any part of an Indian reservation, more than 5% of the American Indian citizens of voting age are members of a single language minority and are unable to sufficiently speak or understand English. In addition to these population requirements, to be covered the illiteracy rate of the citizens of the language minority as a group in that locality must be higher than the national illiteracy rate. This bill has a delayed enactment until Sept. 1, 2021.

SB 740 – County and city precincts; required to be wholly contained within election districts.

Effective date: July 1, 2020

The bill requires each county and city precinct to be wholly contained within a single congressional district, Senate district, House of Delegates district, and local election district. In each year ending in one, the governing body of each county and city is required to establish the precinct boundaries to be consistent with any congressional district, Senate district, House of Delegates district, and local election district that was adopted by the appropriate authority by June 15 of that year, and if new districts have not been adopted by the appropriate authority by that date, the governing body is permitted to use the districts as they existed on June 15 of that year as the basis for establishing the precincts to be used in the November elections held that year. The bill requires a governing body to apply to the State Board of Elections for a waiver to administer a split precinct if it is unable to establish a precinct with the minimum number of registered voters without splitting the precinct between two or more congressional districts, Senate districts, House of Delegates districts, or local election districts, and the State Board is authorized to grant the waiver or to direct the establishment of a precinct with less than the minimum number of registered voters as permitted by current law. A governing body that is granted a waiver to



administer a split precinct or is directed to establish a precinct with fewer than the minimum number of voters is permitted to use that precinct for any election held that year.

#### Ranked Choice Voting

HB 506 – County manager plan; election of board members by instant runoff voting.

Effective date: July 1, 2020

HB506 grants the Boards of Supervisors in Arlington County the option to adopt by ordinance Ranked Choice Voting (RCV), also known as Instant Runoff Voting (IRV), for the nomination or election of its members. The bill adds a code section defining IRV and explaining how it is conducted. The bill allows the State Board of Elections to implement regulations governing IRV. It also requires any locality using IRV to reimburse the Department of Elections for any costs incurred that are necessary for the implementation of IRV.

HB 1103 – Ranked choice voting; election for local governing bodies, local option pilot program.

Effective date: July 1, 2021

HB1103 extends the option to adopt Ranked Choice Voting (RCV), also known as Instant Runoff Voting (IRV), to all localities for elections for members of a county board of supervisors or city council, and further states that the decision to adopt is to be made in consultation with the local electoral board and general registrar. The bill allows the State Board to adopt regulations for the proper administration of elections using IRV including procedures for tabulating votes in rounds, procedures for determining winners, and standards for ballots, in addition to administering or prescribing standards for voter outreach and public information programs that participating localities can use. Finally, it provides that any costs incurred by the Department of Elections related to changes that are necessary for implementing IRV shall be charged to the localities who choose to use IRV. The bill does not become effective until July 1, 2021, and it's language sunsets (or ends) July 1, 2031.

#### Recounts

HB 179 – Recounts; procedure for certain ballots.

Effective date: July 1, 2020

This bill makes clear that ballots must be set aside or challenged before a precinct's ballot totals are finalized, and explicitly prohibits the court from reconsidering the validity of any ballot that was not challenged by election officials during the hand count. These were already part of the Department's recount procedures, but this bill codifies them for clarity.



HB 198 – Recounts; special election to be held in the case of a tie vote.

Effective date: July 1, 2020

This bill requires a special election to be held in the event a recount occurs and the result is a tie, however this change does not apply to elections for statewide offices.

#### Voter Identification

HB 19 and SB 65 – Voter identification; repeal of photo identification requirements.

Effective date: July 1, 2020

This bill expands the list of acceptable voter identification documents to include voter confirmation documents, any HAVA compliant ID documents, and valid higher education student IDs regardless of whether they include a photo or not. If the voter does not present an acceptable ID, he or she can sign and ID Confirmation Statement confirming his or her identity and voter regularly. Since an ID that includes a photo is no longer required, the bill relieves ELECT's and registrars' duty to provide free voter ID cards.

HB 213 – Voter identification; accepted forms of identification, out-of-state student identification card.

Effective date: July 1, 2020

This bill adds valid student IDs issued by institutes of higher learning located outside the state of Virginia to the list of acceptable forms of ID for voting.

#### Voter Registration

HB 201 – Elections; voter registration; same-day registration.

Effective date: October 1, 2022

This bill extends the period that an otherwise qualified person can register to vote in person up to and through election day, effectively providing for same-day registration in all elections. This bill does not become effective until October 1, 2022.

HB 235 and SB 219 – Voter registration; automatic voter registration.

Effective date: July 1, 2020

This bill effectively provides for automatic voter registration when a qualified citizen interacts with the DMV or the DMV website to get a new driver's license or ID, renew their existing license or ID, or change their listed address. Individuals will be asked whether they are a US citizen and given the option to decline to have their information sent to the Department of Elections to register them to vote or update their information. Prior to enactment of this bill, voter registration at the DMV was considered "opt-in," because the individual needed to confirm that they wanted their information sent for voter registration

purposes. Now the DMV will ask the question in a way that requires the individual to "opt-out." If the individual does not opt-out, their information will be sent for voter registration purposes.

HB 241 – Protected voter status; certain evidence not required.

Effective date: July 1, 2020

This bill removes the requirement that a person seeking protected voter status on account of fear for their personal safety from an individual who has threatened or stalked them to provide evidence of a complaint.

SB 666 – Voter registration; notification of denial.

Effective date: July 1, 2020

This bill amends the actions taken after a voter registration application is denied. The registrar is now required to notify the applicant of their denial in writing and by email or telephone, if possible, within 5 days of the denial (previously 14 days). If the registrar is able to reach the applicant by phone, they may make corrections to their application over the phone. If the applicant provided an email address, the registrar may send them information regarding online voter registration as well.

SB 857 – Voter registration; notice and public access not required for certain voter registration events.

Effective date: July 1, 2020

Prior to July 1, all voter registration events were required to be open to the public. This bill amends the mandatory public access requirement to exclude registration events held in a high school or a location where a naturalization ceremony is held.