

Virginia Election Law Changes

2020 Regular Session

2020 Special Session I

Aug. 25, 2020

Key Changes for Party Officials and Campaign Organizations

Absentee Voting

- By Mail Application Deadline—10 Days Out (Friday), not 7 (Tuesday)
- By Mail Ballot Deadline—*Postmarked* Election Day, Rec'vd Fri @ Noon
- Proposed SBE Reg—Missing/Illegible Postmark Immaterial
- Extensive Pre-Processing from First Day
- Budget Amendment/November Only
 - Pre-Paid Postage
 - Cure Process for Material Omissions—Rec'vd by Saturday, GR must notify voter, allow correction until Friday at Noon.
 - No Witness Signature Required
 - Drop Boxes—GR's Office, Satellite Locations, Additional by GR, All Polling Places on Election Day

Election Day

- Election Day is a State Holiday
- Voter Name, Not Address, Repeated by Officer of Election
- ID Rule Change
 - No Photo ID Required
 - Out-of-State Student ID Allowed
 - Affidavit-in-lieu of ID
- Split Precinct Provisional Rules
- Yellow Sample Ballots Allowed
- Code Commission Reorganization; Technical Amendments

Campaign Finance (State Elections)

- Text Messages Now Covered by Telephone Rules
 - Include Full Name and SBE Registration Number
 - Caller ID Must Identify Committee
- Paid Online Ads New Disclaimer Rules
 - Video—Same as Broadcast
 - Audio—Same as Radio
 - Other still covered same as Print

Rise in Early Voting

Year	AB	Total	%age
2012	197,014	3,645,902	5%
2013	240,533	2,376,108	10%
2014	246,938	2,321,183	11%
2015	114,457	1,553,826	7%
2016	733,822	4,232,410	17%
2017	543,850	2,974,648	18%
2018	674,998	3,710,977	18%
2019	377,273	2,619,135	14%

COVID-19 Early Voting

Election	AB	Total	%age
March D Pres	121,701	1,389,709	9%
May Town	11,669	23,072	51%
May City	51,800	115,560	45%
June D Primary	81,509	221,685	37%
June R Primary	61,096	344,981	18%

Implications for 2020 EDO

- Republican Officers of Election Needed, especially Absentee
- Poll Watcher Focus on Absentee Voting
 - Processing—45 Days
 - Unattended Drop Boxes
- Absentee Cure Chase Replaces Provisional Chase
- Canvass—3 Days (Wed-Fri; Mon?)
- Pre-Election Litigation/Regulatory Action
 - Postmark Rule
 - Rulemaking on Drop Boxes
 - Ballot Harvesting

All Changes

Absentee Voting

Old Law

- Excuse Required
- Ballot in by 7 pm Election Day
- Apply 7 Days Out
- No Postage
- Satellite Offices
- First-time In Person
- Annual List – Excuse

New Law

- No Excuse
- Ballot in by Noon on Friday
- Apply 10 Days Out
- Postage Paid (SS; 2021)
- Satellite Offices Expanded
- First-time In Person (Except Prisoners)
- Annual List – No Excuse
 - 2021—Permanent List, No Renewal Required

Latest Developments in AB

- Governor's Budget Amendments; Separate Bill SB 5120 / HB 5103
 - Only Applies to November Election
 - No Witness-Signature Requirement
 - Absentee Cure Process—GR must notify voter within 3 days of deficiency, voter has until Noon on Friday after to correct (GR stops on Saturday prior)
 - Pre-Paid Postage—State will reimburse localities (2021 legislation requires localities to pay)
 - Drop Boxes—at Registrar's Office, at Satellite Voting Locations, additional at Registrar's Option; all polling locations on Election Day (Standards adopted by State Board of Elections)
- State Board Postmark Regulation—Postmark doesn't mean Postmark

Voter Registration

Old Law

- Opt-In DMV
- 20-Day Reg Deadline
- 14-Day Notice of Denial
- Protected Status-Evidence Req.
- Registration Event – Public Access Required

New Law

- Automatic / Opt-Out DMV
- Same-Day Reg (2022)
- 5-Day Notice of Denial
- Protected Status-No Evidence
- Registration Event – No Public Access requirement for High School and Naturalization Ceremonies

Election Day Procedures

Old Law

- Split Precinct Provisional – 1
- Election Day Not Holiday
- Polls Close at 7 pm
- 2d Tuesday in June
- Announce Voter Address
- E-Pollbooks

New Law

- Split Precinct Provisional – 2
- Election Day State Holiday
- Polls Close at 8 pm (2021)
- 3d Tuesday in June
- Announce Voter Name Only
- Backup Paper Pollbooks

State Board of Elections/Department

Old Law

- 3 member, Same Term
- General Supervision
- Political Commissioner

New Law

- 5 member, staggered term
- Major Integrity Risk ID & Assess
- Add Non-Political Ops Director
- GR Certification

Electoral Boards / Officers of Election

Old Law

- Term Begins March 1
- Pages everywhere but CAP
- No Discrim Prohibitions
- Training Pegged to November
- Split Precincts Allowed
- No Rule on Vacating

New Law

- Term Begins January 1
- Pages allowed in CAP
- Employment Discrim Prohibited
- Training Pegged to First Election
- Split Precincts Limited
- Member Vacates if not qualified to vote

Campaign Finance

Old Law

- Social Media—limited disclaimer
- Text Messages Not Regulated
- Print Disclaimer 7 point (2024)
- Stand By Your Ad Sponsor
- Local Paper File Allows
- Pre-Session Regular Reporting
- Checks Only
- Multiple Committees own sched
- Soil and Water Exempt

New Law

- Social Media—full disclaimer
- Text Messages as Phone Calls
- Print Disclaimer Proportional
- Stand By Your Ad Ballot Name
- Local must E-File
- Pre-Session Large Contrib Reports
- Debit Cards
- Multiple Committees shared sched
- Soil and Water Covered

Other

- ID
 - No Photo Requirement
 - Affidavit Allowed
 - Out-of-State Student ID allowed
- Recounts
 - No “David Yancey” Rules
 - Ballot must be challenged during hand count
 - Tie after recount leads to special (except statewide)
- Ranked Choice Voting
 - Arlington by ordinance
 - Others by Pilot (2021)

Miscellaneous

Old Law

- Primary—Party Rules Only
- No Yellow Sample Ballots
- No DRE
- Petition—Out of State Circulator

New Law

- Primary—State Forms Required
- Yellow Allowed
- Voter-Verified Paper Required
- Petitions—Out of State Circulator requires consent affidavit
- Code Commission Revisions
- Outdated Racial Discrimination Removed
- Push On Campus Registration
- Courts get free list for Jury Duty
- Minority Language Access Extended (2021)