

2021 General Assembly Election Law Update

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What drove 2021 Changes?

- Changes inspired by COVID-19 Response
 - (2020 Special Session Budget Amendment Redux)
- Voting Rights Act
 - National Democrat Priority
 - Credit-Claiming by Virginia Ds
- Local Politics
- Usual incremental changes

“You never want a serious crisis to go to waste. And what I mean by that is an opportunity to do things that you think you could not do before.” -- Rahm Emanuel



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2021 significant, but nothing like 2020

- Elimination of Photo ID
- No Excuse Absentee Voting
- Post-Election Absentee Ballot Deadline
- Delayed Effective Date Changes
 - 5-Member State Board (1/1/2021)
 - Ranked Choice Voting - Local governing bodies (7/1/2021)
 - Permanent AB list (7/1/2021)
 - Minority Language Requirements (9/1/2021)
 - Same Day Registration (10/1/2022)

Absentee Voting Changes

- Omnibus AB Bill (HB 1888 / SB 1245)
 - Eliminates first-time in-person requirement for voters registering by mail
 - Early in person report separate from all other
 - Expands emergency AB provisions
 - Drop-off locations (ballot harvesting), Pre-paid postage, AB Cure
 - Applicant can change mind and vote--regular or provisional depending on circumstances
 - CAP no longer optional; pre-processing required
 - Workgroup to recommend precinct tabulation and reporting (7/31/-10/31)
- Local option for Sunday absentee in person (HB 1968)
- Independent AB option for visual impairment/print disability (SB 1331)
- GR may contract out AB request fulfillment (SB 1239)
- Witness requirement suspended during public health emergency (SB 1097)
 - Workgroup to recommend alternate security measure to witness signature (7/31-10/31)

Virginia Voting Rights Act (HB 1890 / SB 1395)

- Major Provisions
 - Civil action by AG
 - Vote denial or dilution prohibited (similar to VRA Sec. 2)
 - Minority language accessibility--5% or 10K
 - At-large Election Limits--cause of action
 - Voter Education and Outreach Fund--special nonreverting fund
 - “Pre-Clearance” of Covered practices (similar to VRA Sec. 5)
 - Expand criminal provisions to include private rights of action
 - Additional criminal provisions
- Applies to party nominating processes, not just general elections

Virginia Voting Rights Act--Pre-Clearance

- Covered Practice
 - Local Governing Body/School Board--Number, At-large/District
 - Jurisdiction boundary change reduce protected class VAP by more than 5 points over 12 months
 - Any election district change, including redistricting
 - Change restricting interpreter service or limits election material in other language
 - Reducing, consolidating, or relocating polling locations
- Notice and Comment OR AG Clearance
 - 30 days of comment, notice at least 45 days prior to close of comment
 - Changes based on comments require additional 15 days notice and comment
 - 30-day waiting period after final action during which private action allowed
 - Alternative--AG Certificate of No Objection (w/in 60 days)--does not bar private action

Virginia Voting Rights Act - Additional Criminal and Civil

- Expands intimidation of officers
 - Bribery, intimidation, *threats, coercion*
 - Adds satellite offices and other voting locations to precincts
- Expands intimidation of voters
 - *Intimidates, threatens, or coerces*
 - Civil cause of action--injunctive relief, fee switching
- Expands communication of false information
 - Adds satellite office and GR office to precinct and registration status
 - Civil cause of action--injunctive relief, fee switching
- Adds Interference with voting
 - Civil penalty NTE \$1K for person acting under color of law
 - Misinform voter based on ballot in language voter doesn't understand--Class 1 Misdemeanor

Other Changes

- Primary from 2d to 3d Tuesday in June (SB 1148)
- Curbside Voting (HB 1921)
- Online Registration Failures (HB 1810)
- “Safety” Measures
 - No Firearms (HB 2081)
 - No officers of election to assume LE power (SB 1111)
- 16-year-old Pre Registration (HB 2125)
- Local Elections
 - All Municipal Moved to November (SB 1157)
 - No District/Ward Residency Requirement with At-Large Election (HB 2198)
- Nominating Process Requirements (HB 2020)
- GR Out-of-Jurisdiction Population Limit doubled (25K to 50K) (SB 1281)
- Large Pre-Session Contrib Reports from $\geq 1K$ to $>1K$ (SB 1444)