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HOUSE BILL NO. 880

Offered January 12, 2022

Prefiled January 12, 2022

A *BILL to amend the Code of Virginia by adding in Chapter 4.1 of Title 24.2 a section numbered 24.2-471, relating to elections; electronic return of voted military-overseas ballots; pilot program.*

Patron—Lopez

Committee Referral Pending

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 4.1 of Title 24.2 a section numbered 24.2-471 as follows:

§ 24.2-471. Electronic return of voted military-overseas ballots; pilot program.

A. *The Commissioner of Elections shall establish and supervise a pilot program for the electronic return of voted military-overseas ballots during primaries. An overseas voter who is a registered voter of a participating county or city may return his voted military-overseas ballot by electronic means.*

B. *The Commissioner shall promulgate standards and develop procedures for the secure transmission and return, storage, and processing of voted military-overseas ballots. These standards and procedures shall include:*

1. *Security measures that reasonably secure the transmission, processing, and storage of voter data from interception and unauthorized access;*

2. *Methods for verifying and authenticating the identity of the voter; and*

3. *Methods for the encryption of the voted ballots.*

The Commissioner shall ensure that any system used for the electronic return of voted military-overseas ballots is auditable and end-to-end verifiable. It shall be capable of allowing the voter to track the transmission of his voted ballot and to determine that the secure transmission of his ballot was successful.

The Commissioner shall develop a procedure for a security review to be conducted in each participating county or city after each primary election, based on an evaluation of the number of or any discrepancy in the voted ballots received electronically, and shall issue a report on its findings.

The Commissioner may waive the witness signature requirement of § 24.2-707 as part of the pilot program.

The Commissioner shall develop a timetable and process for participating counties and cities to notify the voters in the county or city who are eligible to return a voted military-overseas ballot by electronic means through the pilot program. Such process shall include instructions on casting a ballot through the pilot program and notice that an eligible voter has the right to vote by mail.

C. *Any county or city may apply for participation in the pilot program by submitting a proposal to the Commissioner. The proposal shall be on a form and include such information as prescribed by the Commissioner, including the number of voters in the county or city who would be eligible to return a voted military-overseas ballot by electronic means through the pilot program. The Commissioner shall prescribe the criteria a locality must meet in order to be approved for participation in the pilot program.*

A county or city approved for participation shall accept voted military-overseas ballots cast by overseas voters in every primary election held in the county or city during its participation in the pilot program.

Every participating county and city shall follow all instructions and procedures prescribed by the Commissioner, including participation in the post-primary security review, pursuant to his authority in subsection B.

D. *Any voter eligible to return his voted military-overseas ballot by electronic means through the pilot program shall be permitted to sign the statement of voter accompanying his military-overseas ballot, and any other documents related to absentee voting or applying to absentee vote, using his digital signature association with his Common Access Card issued by the U.S. Department of Defense or any replacement to the Common Access Card issued by the U.S. Department of Defense. Such signature shall be deemed to meet the requirements of §§ 24.2-706 and 24.2-707.*

E. *In each year of the pilot program, the Commissioner shall conduct a security assessment and update the security measures developed pursuant to subsection B in order to ensure the accuracy and integrity of voted military-overseas ballots returned by electronic means.*

2. That the pilot program established pursuant to this act shall be in effect for primary elections

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59 held on and after January 1, 2023.

60 3. That the Commissioner of Elections shall submit to the Governor and the General Assembly on
61 or before December 1, 2027, a report on the outcomes of the pilot program in every participating
62 county or city. The report shall include a recommendation to the General Assembly regarding
63 whether to implement the electronic return of ballots cast by overseas voters on a permanent,
64 statewide basis. If making such a recommendation, the report shall also include legislative
65 recommendations to improve efficiency, effectiveness, and security.

66 4. That the provisions of this act shall expire on December 31, 2027.