



Virginia Institute

for Public Policy

ELECTION INTEGRITY

2022 Legislative Report

ELECTION INTEGRITY

Restoring Trust in Virginia's Elections

Do you trust your vote counts? If a medical pulse was taken on America's trust in our election processes, the results would be alarming—some would say fatal. One author¹ quantified the problem this way: “After the last election cycle, confidence is waning: Less than 60%² of all voters were confident that ballots would be accurately cast and counted.” The result of this mistrust is that fewer people show up at the polls to take part in the democratic process of governing and we lose representation of the rich diversity that makes us who we are.

However, as the populace has increasingly lost trust in elections, a large infusion of new energy and support for finding solutions has surfaced. Those who advocate for increased election integrity, also often called election security, believe it should be easy to vote and hard to cheat in the process for our citizenry to select public servants. Yet, current Virginia laws and regulations make it easy to vote and easy to cheat—similar problems are pervasive across

the nation. Knowing that the laws are not robust enough to inhibit voter fraud only exacerbates the populace's mistrust in elections. When election processes are vulnerable to being manipulated with only minimal energy and time required to do so, Virginians' sacred right to vote is jeopardized.

How can we restore “liberty and justice for all” voters? Good election policy at the state level is the best place to start. To prevent even the temptation for a person to commit voter fraud, it is desirable to safeguard our elections by passing laws to make it difficult to vote more than once or otherwise unduly influence voting results and interfere with the will of “we the people.” Although dozens and dozens of bills that touched on aspects of election security were introduced during this past 2022 Virginia Legislative Session, only a few were passed by the legislature and sent to the Governor's desk. Below you will find a roadmap of bills introduced this session and some of the strong ideas that lawmakers advanced to secure our elections.

2022 LEGISLATION OVERVIEW

Absentee Ballot Counting

Upon adoption of **HB 927 & SB 3**, any ballot counted at a central absentee precinct would be required to be counted and sorted into categories based on the precinct where the ballot was cast. This bill also requires total vote result numbers to be reported by precinct.

Accurate Voter Rolls

HB 55 & SB 211 were designed to require the Virginia Department of Vital Statistics to report state residents' deaths to the Department of Elections on a weekly basis to update the voter rolls.

Ballots Arriving Late Not Permitted to Count

The final version of **HB 46** included language to prohibit the counting of ballots that arrive after the polls close on Election Day.

Clarification of Absentee Ballot Application Requirements

SB 652 sought to clarify that the absence of the last four digits of a person's social security number on an application for an absentee ballot is a material omission, and is grounds for rejecting the application.

Election Audit Process

SB 390 was intended to address the need to ensure that all voting machines in the state function correctly, by establishing an audit process that would check every machine once every 5 years.

Limited Same Day Registration

Adoption of **HB 185** would have established a good policy to prohibit same day voter registration, with only three exceptions. The three specified exceptions were: service members of the United States on active duty, individuals temporarily living outside of the country, and a spouse or dependent of one of the first two categories.

Limited Early Voting

HB 46 intended to reduce the number of early voting days from 45 to 21.

Repeal the Permanent Absentee Voter List

HB 46 would have repealed the section of law that governs the existence of a Permanent Absentee Voter List.



Secure Election Financing

The passage of **HB 205 & SB 80** would make it illegal for any elected state or local election official to accept money from any individual or entity except the government to fund an election in Virginia. This policy would be beneficial in preserving unbiased elections.

Voter Identification

HB 46 required a voter to present an ID with a photograph at the polls in order to cast a ballot. Alternatively, **HB 544** would have allowed a voter to inform the state that they were personally opting into a photo ID requirement which would be enforced at the polls for that voter.

*Scan the QR code to
access the Virginia
General Assembly's
Legislative Information
System.*





BACKGROUND & STATUS

2022 ELECTION INTEGRITY LEGISLATION

ABSENTEE BALLOT COUNTING

HOUSE BILL 927 & SENATE BILL 3

BACKGROUND

In past elections, there has been a lack of transparency with the manner in which Central Absentee Precincts (CAP) sort, count, and report votes. **HB 927** and **SB 3** resolve this issue and increase transparency by requiring that ballots be sorted and counted based on the precinct where the individual ballots were cast.

STATUS

These bills garnered strong bipartisan support throughout the legislative process and were signed by the Governor on April 7th, 2022.

ACCURATE VOTER ROLLS

HOUSE BILL 55 & SENATE BILL 211

BACKGROUND

Ensuring the accuracy of the voter rolls is imperative and **HB 55** and **SB 211** help meet the need for accuracy of the voter rolls. These bills were designed to require the Virginia Department of Vital Statistics to report state residents' deaths to the Department of Elections on a weekly basis so that the new information can be reflected on the voter rolls. Right now, this process is supposed to be done monthly. This is a good policy decision for the Commonwealth that will increase the ongoing accuracy of the official voter roll lists of Virginia.

STATUS

These bills garnered strong bipartisan support throughout the legislative process. **HB 55** was signed by the Governor on February 23rd and **SB 211** was signed by the Governor on March 11th.

BALLOTS ARRIVING LATE NOT COUNTED

HOUSE BILL 46 & SENATE BILL 211

BACKGROUND

Currently, ballots may be counted as long as they are postmarked by Election Day (Tuesday) and arrive by Friday afternoon following Election Day. The final version of **HB 46** would have prohibited the counting of ballots that arrive after the close of polls on Election Day.

STATUS

HB 46 failed in a party line vote of 9-6 in the Senate Privileges and Elections Committee.

CLARIFICATION OF ABSENTEE BALLOT APPLICATION REQUIREMENTS

SENATE BILL 652

BACKGROUND

In October 2021, the Virginia Institute for Public Policy, aided by the Public Interest Legal Foundation law firm, brought a lawsuit against Fairfax county for violating the law that requires the last four digits of a citizen's social security number to be included when filling out an application for an absentee ballot.

Fairfax claimed that they were interpreting the law as not requiring this information, although every other Virginia county unilaterally interpreted the law otherwise, and always have. Although the judge dismissed the case citing that Virginia Institute did not have the necessary standing to advance the case, it is believed that the lawsuit deterred other counties from attempting to follow Fairfax and disregard the law.



SB 652 clarifies the requirement of the last four digits of a person’s social security number on an application for an absentee ballot and further clarifies that leaving off this information is a material omission, and is grounds for rejecting the application. This requirement would not apply if a person is applying in person for an absentee ballot, because under those circumstances the last four digits of a social security number are not part of the application process. This legislation was brought forward to reinforce the existing law.

STATUS

This bill is currently in a conference committee and has no final status yet.

ELECTION AUDIT PROCESS

HOUSE BILL 895 & SENATE BILL 390

BACKGROUND

SB 390 was intended to address the need to ensure that all voting machines in the state function cor-

rectly, by establishing an audit process that would check every machine once every 5 years. Unfortunately, this bill was sidelined for a type of auditing that has gained popularity in recent years, called risk limiting audits.

Some of the reasons risk limiting audits are problematic:

- they are expensive — voting machine audit options like the kind that **SB 390** would establish are only a fraction of the cost;
- they occur between election day and certification of the vote, putting an additional burden of administration of this process on election staff during the same time they are tasked with certifying the vote; and
- the concept and application of risk limiting audits in Virginia is being advanced by organizations who are funded by known special interest groups.

According to Ned Jones with the Conservative Partnership Institute, out of 4.4 million votes in the 2020 presidential election, approximately 1,200 were in the ballot sample for the risk-limiting audit. This is .0273 percent and not enough to be useful.³ Establishing and building up risk limiting audits in Virginia is arguably



sending the message that election security measures are being implemented when the reality is that the procedures in place are not effective.

STATUS

SB 390 bill failed in a party line vote of 9-6 in the Senate Privileges and Elections Committee.

HB 895, promoting risk limiting audits, passed the legislature and is currently on the Governor’s desk and has no final status yet.

shown in the graph below, has a level of inefficiency. **HB 46** intended to reduce the number of early voting days from 45 to 21. The data from the graph indicates that the demand for early voting is not high enough to justify the expense.

STATUS

HB 46 failed in a party line vote of 9-6 in the Senate Privileges and Elections Committee.

LIMITED SAME DAY REGISTRATION

LIMITED EARLY VOTING

HOUSE BILL 185

BACKGROUND

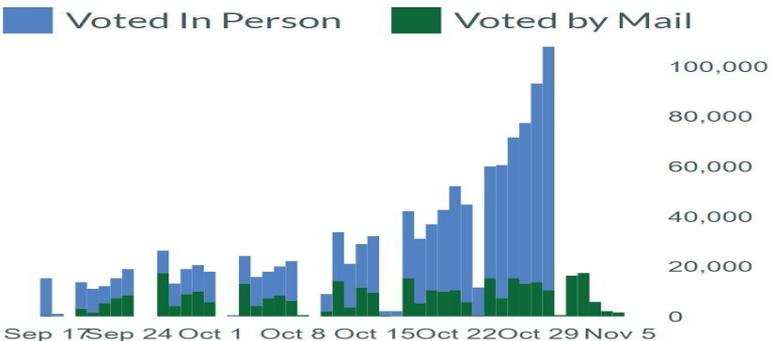
HOUSE BILL 46

BACKGROUND

In 2020, a new state law established 45 days of early voting in Virginia— at the time, we became the state with the longest time frame for early voting. When the polls are open that long it is costly to taxpayers, and as

In 2020 a new Virginia law was passed permitting same-day voter registration, which allows a voter to show up to the polls on election day and register to vote, and immediately cast a ballot. The new law has an effective date of this year, October 2022. This practice is problematic because the individuals who are

2021 Early Voting Timeline



Graph provided by The Virginia Public Access Project

working at the polls do not have the time and resources necessary to verify that an individual who is registering to vote is a qualified voter and/or has not already voted, thus opening the door to voter fraud.

Adoption of **HB 185** would have established a good policy to prohibit same day voter registration, with only three exceptions. The three specified exceptions were: service members of the United States on active duty, individuals temporarily living outside of the country, and a spouse or dependent of one of the first two categories.

STATUS

HB 185 failed in a party line vote of 9-6 in the Senate Privileges and Elections Committee.

REPEAL THE PERMANENT ABSENTEE VOTER LIST

HOUSE BILL 46

BACKGROUND

Currently, when an individual applies to receive an absentee ballot, there is no excuse required and you can choose to receive an absentee mail-in ballot for every future election. You are added to what is called the Permanent Absentee Voter List. One reason that this is a vulnerable spot for voter fraud to be committed is because people may move, and the next resident at that address could receive the ballot meant for the previous resident. Voting a second

time and committing voter fraud in this type of scenario could be quite simple. **HB 46** would have repealed the section of law that governs the existence of a Permanent Absentee Voter List.

STATUS

HB 46 failed in a party line vote of 9-6 in the Senate Privileges and Elections Committee.

SECURE ELECTION FINANCING

HOUSE BILL 205 & SENATE BILL 80

BACKGROUND

According to the Wall Street Journal⁴, “A nonprofit called the Center for Technology and Civic Life, or CTCL, funded by Mark Zuckerberg, says it gave \$350 million to nearly 2,500 election departments in the course of the 2020 campaign.”

“The 2020 pandemic... was a super-spreader of bad precedents. More than a year later, we’re still getting



information about the huge private money that underwrote official government voting efforts in 49 states. Much is still unknown, but lawmakers already know enough to ban this practice.”

CTCL has disclosed that \$3.7 million dollars was dispersed in Virginia in 2020, with almost all funds going to counties that were won by the same presidential candidate.⁵

Private funding of elections causes mistrust about whether public elections are truly public and reversing this practice is a strong bipartisan issue. Allowing third party financing of public elections creates substantial danger of not only political bias but also out of state money influencing Virginia elections.

(The Foundation for Government Accountability has excellent numbers from public opinion polling on the issue that you can find at www.excellenceinpolling.com.)

STATUS

HB 205 and **SB 80** received bipartisan support in the House and Senate and were signed by the Governor on April 11th. An amendment that we did not favor was added to the

original bill, to clarify that a federal grant that may have been funded in part by private dollars would still be allowed if this law passed.

VOTER IDENTIFICATION

HOUSE BILL 46 & HOUSE BILL 544

BACKGROUND

In the past few years more than 60 election related changes have been made. One of those changes was related to voter identification on Election Day. Currently, you may vote with only a utility bill and no ID, you may vote with an ID that has no photograph, and if you forget your ID you can sign a statement to affirm you are who you say you are.

HB 46, if passed, would have required a voter to present an ID with a photograph at the polls in order to cast a ballot. If the voter did not present a photo ID, they could receive and vote a provisional ballot. The legislation also removed the option for a voter to sign a statement confirming their own identity as an



alternative to providing an ID and the option to provide a utility bill or other document without a photograph to provide proof of identity.

Alternatively, **HB 544** would have allowed a voter to inform the state that they were personally opting into a photo ID requirement which would be enforced at the polls for that voter. This would prevent a person from showing up to the polls and falsely claiming they were that voter and casting a ballot. Although this policy would not be as strong as universally required photo ID, a measure like this

would be progress towards increased election security.

STATUS

HB 46 failed in a party line vote of 9-6 in the Senate Privileges and Elections Committee.

HB 544 failed in a party line vote of 9-6 in the Senate Privileges and Elections Committee.

Unless otherwise noted, all legislation signed by the Governor becomes effective on July 1, 2022.

¹ Voter ID Makes Sense — Even Stacy Abrams Agrees | Sara Coffey, FGA | 2021.09.02

² The Foundation of Election Fraud: Two Gateways to Scamming the System | Jonathan Bain, FGA | 2021.06.15

³ Virginia State Board of Elections Meeting | 2022.03.01

⁴ Wall Street Journal Editorial, Zuckerbucks Shouldn't Pay for Elections | 2022.01.03

⁵ Capital Research Center: Shining a Light on Zuckbucks in Key States | Parker Thayer and Hayden Ludwig | 2022.01.18



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