

**AMENDMENT IN THE NATURE OF A SUBSTITUTE TO BILL NO. 36-0187
Offered by Senator Franklin D. Johnson**

Bill No. 36-0187 is amended by striking the language after the enabling clause and inserting the following new language:

“SECTION 1. Title 18 Virgin Islands Code, chapter 23, section 622 is amended by designating the existing language as subsection (a) and adding the following subsections (b) through (l):

“(b) In addition to any voting method otherwise authorized by law, a registered voter is permitted, at the time of check-in before voting, to request and to vote by a paper ballot. This right applies notwithstanding the use of electronic voting machines or electronic tabulation devices at a polling place, and no voter is required to cast a ballot by machine if the voter elects to vote by paper ballot.

(c) The Virgin Islands Elections System shall provide paper ballots to voters requesting them and shall ensure an adequate supply of paper ballots at each polling place. Paper ballots must be identical in form and content to ballots used in voting machines.

(d) The voter shall hand mark the paper ballot and deposit it into a separate, clearly labeled, sealed ballot box designated exclusively for voter-requested paper ballots. Hand-marked paper ballots must be maintained separately from ballots cast by voting machine, may not be commingled with any other ballots and must be inserted and stored in a ballot box designated exclusively for hand-marked paper ballots. Hand-marked paper ballots may not be inserted into, scanned by, or otherwise processed by any electronic voting machine or electronic tabulation device, and no ballot may be counted more than once. A recount of votes cast by hand-marked paper ballots must be conducted by manual tabulation.

(e) A hand-marked paper ballot is spoiled if it is marked in error, damaged, or if the voter renders the ballot unusable before it is deposited into the ballot box. A spoiled hand-marked paper ballot must be clearly marked "SPOILED," void, and must be retained separately from counted ballots. Upon the request of the voter and the approval of the presiding election officer and designated election officials, the voter must be given a replacement paper ballot. A spoiled hand-marked paper ballot may not be deposited into a ballot box, counted, tabulated, or processed by a voting machine. Hand-marked spoiled paper ballots must be segregated, secured, and retained in a clearly marked container. Before the certification of an election, the number of hand-marked spoiled paper ballots must be recorded and reconciled with the number of paper ballots issued and used.

(f) Immediately after the polls close, the hand-marked paper ballot box must be sealed, logged, and secured, and must remain under continuous custody of the presiding election officer and designated election officials until manual tabulation begins, and the hand-marked paper ballots must be counted and tabulated at the polling place where they are cast.

(g) The presiding election officer at each polling place shall supervise the manual counting and tabulation of the votes cast on paper ballots and shall ensure that the tally sheets accurately record these votes, the tally sheets are completed and signed by the election officials conducting the count, and that the hand-marked paper ballots and tally sheets are secured as part of the official election record. The election official handling and manually tabulating the hand-marked paper ballots may not possess a marking device and may not remove the ballots from the immediate vicinity of the counting table.

(h) Manual tabulation of the hand-marked paper ballots must be conducted in public view by not fewer than three election officials, working jointly. Accredited election watchers and members of the public must be permitted to observe the manual counting and tabulation of each hand-marked paper ballot as it is opened, read, and votes recorded, under reasonable rules adopted to prevent interference with election officials or disruption of the process. Upon

completion of manual tabulation, the publicly reported hand-counted vote total must be arithmetically added to the separately derived machine-tabulated total, without re-tabulating hand-counted ballots by machine, and the resulting sum constitutes the official vote total for purposes of certification, subject to the reconciliation requirements of this section.

(i) Before the certification of an election, the Supervisor of Elections shall complete a written reconciliation of:

- (1) the number of voter-requested paper ballots issued;
- (2) the number of spoiled hand-marked paper ballots;
- (3) the number of replacement paper ballots issued;
- (4) the number of hand-marked paper ballots counted and tabulated; and
- (5) the number of voter-requested paper ballots unused or uncast. The reconciliation must demonstrate that all paper ballots issued are accounted for.

(j) After each election, the Board of Elections shall conduct a post-election audit of the machine-tabulated results and aggregation accuracy, using a random sample of polling places, to verify consistency with the publicly reported results. The Board of Elections shall make public announcements advising of the post-election audits through official, accessible channels, providing sufficient detail and notice to allow public awareness and observation, and to ensure transparency and confidence in the verification process.

(k) The Board of Elections shall ensure that election officials are trained on the requirements of paper ballots and hand-marked ballots and that notice of the availability of voter-requested paper ballots is posted at each polling place.

(l) For purposes of this section:

- (1) “Voter-requested paper ballot” means a paper ballot issued to a voter at the voter’s request to be cast and secured separately from ballots cast by a voting machine.

(2) “Hand-marked paper ballot” means a voter-requested paper ballot marked directly by the voter using a pen or pencil, and not produced, marked, or printed by a voting machine or ballot-marking device.

(3) “Manual tabulation” means the process by which election officials visually examine, count and record the votes cast for each office, question, or measure, without the use of any automated, mechanical, or electronic tabulation equipment on each voter-requested hand-marked paper ballot.

(4) All other terms used in this section have meanings assigned to them elsewhere in this title.””

SECTION 2. (a) The Board of Elections shall establish uniform standards for determining voter intent on hand-marked paper ballots.

(b) The Board of Elections shall promulgate rules and procedures to implement voter-requested paper ballot voting, manual vote tabulation and ballot reconciliation at the polling place, for the training of election officials, and for providing public notices to voters.”

Amendment No. 36-662/January 21, 2026/SLR