

# VIRGINIA ACTS OF ASSEMBLY -- 2000 RECONVENED SESSION

## CHAPTER 1045

*An Act to amend and reenact §§ 22.1-57.3, 24.2-222, 24.2-223, 24.2-226, 24.2-311, and 24.2-503 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-222.1, providing cities and towns the option of conducting municipal elections at the November general election rather than the May general election.*

[H 622]

Approved April 19, 2000

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 22.1-57.3, 24.2-222, 24.2-223, 24.2-226, 24.2-311, and 24.2-503 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-222.1 as follows:**

§ 22.1-57.3. Election of school board members.

A. If a majority of the qualified voters voting in such referendum vote in favor of changing the method of selecting school board members to direct election by the voters, then the members of the school board shall be elected by popular vote. Elections of school board members in a county, city, or town shall be held to coincide with the elections for members of the governing body of the county, city, or town at the regular general election in November ~~in the case of a county~~ or the regular general election in May ~~in the case of a city or town~~, *as the case may be*. ~~In no event shall any election of school board members take place prior to 1994.~~

B. The initial elected board shall consist of the same number of members as the appointed school board it replaces, and the members shall be elected from the established county or municipal election districts, at large, or a combination thereof, on the same basis as the school board previously was appointed. If the appointed school board being replaced has not been appointed either on an at-large basis or on the basis of the established county or municipal election districts, or a combination thereof, the members shall be elected at large unless the governing body of the county, city, or town provides for the election of school board members on the basis of the established county or municipal election districts. If the appointed school board being replaced has been appointed at large, the governing body of the county, city, or town may establish school election districts for the election of school board members. The governing body may provide for a locality-wide district, one or more districts comprised of a part of the locality, or any combination thereof, and for the apportionment of one or more school board members to any district.

The terms of the members of the elected school board for any county, city, or town shall be the same as the terms of the members of the governing body for the county, city, or town. In any locality in which both the school board and the governing body are elected from election districts, as opposed to being elected wholly on an at-large basis, the elections of the school board member and governing body member from each specific district shall be held simultaneously except as otherwise provided in § 22.1-57.3:1.

At the first election for members of the school board, so many members shall be elected as there are members to be elected at the regular election for the governing body. At each subsequent regular election for members of the governing body, the same number of members of the school board shall be elected as the number of members to be elected at the regular election to the governing body. However, if the number of members on the school board differs from the number of members of the governing body, the number of members elected to the school board at the first and subsequent general election shall be either more or less than the number of governing body members, as appropriate, to the end that the number of members on the initial elected school board is the same as the number of members on the appointed board being replaced.

Except as provided in § 22.1-57.3:1, the terms of the members of the school board shall be staggered only if the terms of the members of the governing body are staggered. If there are more, or fewer, members on the school board than on the governing body, the number of members to be elected to the school board at the first and subsequent election for school board members shall be the number required to establish the staggered term structure so that (i) a majority of the members of the school board is elected at the same time as a majority of the members of the governing body; (ii) if one-half of the governing body is being elected and the school board has an even number of members, one-half of the members of the school board is elected; (iii) if one-half of the governing body is being elected and the school board has an odd number of members, the majority by one member of the school board is elected at the first election and the remainder of the school board is elected at the second election; or (iv) if a majority of the members of the governing body is being elected and the school board has an even number of members, one-half of the members of the school board is elected.

If the school board is elected at large and the terms of the members of the school board are staggered, the school board members to be replaced at the first election shall include all appointed school board members whose appointive terms are scheduled to expire on December 31 *or on June 30, as the case may be*, next following the first election of county, city or town school board members; ~~or on June 30 next following the first election of city or town school board members~~. If the number of school board members whose appointive terms are so scheduled to expire is zero or less than the number of school board members to be elected at the first election, the appointed school board members to be replaced at the first election shall also include those whose appointive terms are scheduled to expire next subsequent to the date on which the terms of office of the first elected school board members will commence. If the appointive terms of more than one school board member are scheduled to expire simultaneously, but less than all of such members are to be replaced at the first election, then the identity of such school board member or members to be replaced at the first election shall be determined by a drawing held by the county or city electoral board at least ten days prior to the last day for a person to qualify as a candidate for school board member.

In any case in which school board members are elected from election districts, as opposed to being elected from the county, city, or town at large, the election districts for the school board shall be coterminous with the election districts for the county, city, or town governing body, except as may be specifically provided for the election of school board members in a county, city, or town in which the governing body is elected at large.

C. The terms of office for the school board members shall commence on January 1 *or July 1, as the case may be*, following their election ~~in the case of a county and on July 1 following their election in the case of a city or town~~. On December 31 *or June 30, as the case may be*, following the first election of county, city or town school board members, ~~or on June 30 in the case of a city or town school board~~, the terms of office of the members of the school board in office through appointment shall expire and the school board selection commission, if there is one, shall be abolished. If the entire school board is not elected at the first election of school board members, only the terms of the appointed members being replaced shall so expire and the terms of the appointed members being replaced at a subsequent election shall continue or be extended to expire on December 31 or June 30, as appropriate, of the year of the election of the school board members replacing them.

D. Except as otherwise provided herein, a vacancy in the office of any elected school board member shall be filled pursuant to §§ 24.2-226 and 24.2-228. In any county that has adopted the urban county executive form of government and that has adopted an elected school board, any vacancy on the elected school board shall be filled in accordance with the procedures set forth in § 15.2-802, *mutatis mutandis*. Notwithstanding any provision of law or charter to the contrary, if no candidates file for election to a school board office and no person who is qualified to hold the office is elected by write-in votes, a vacancy shall be deemed to exist in the office as of January 1 *or July 1, as the case may be*, ~~in the case of a county school board, or July 1, in the case of a city or town school board~~, following the general election. For the purposes of this subsection and Article 6 (§ 24.2-225 et seq.) of Chapter 2 of Title 24.2, local school boards comprised of elected and appointed members shall be deemed elected school boards.

E. In order to have their names placed on the ballot, all candidates shall be nominated only by petition as provided by general law pursuant to § 24.2-506.

F. For the purposes of this section, the election and term of the mayor or chairman of the board of supervisors shall be deemed to be an election and term of a member of the governing body of the municipality or county, respectively, whether or not the mayor or chairman is deemed to be a member of the governing body for any other purpose.

G. No employee of a school board shall be eligible to serve on the board with whom he is employed.

§ 24.2-222. Election and terms of mayor and council for cities and towns.

The qualified voters of each city and town shall elect a mayor, if so provided by charter, and a council for the terms provided by charter. *Except as provided in § 24.2-222.1, and* notwithstanding any other provision of law, general or special: (i) any election of mayor or councilmen of a city or town whose charter provides for such elections at two-year or four-year intervals shall take place at the May general election of an even-numbered year and (ii) any election of mayor or councilmen of a city or town whose charter provides for such elections at one-year or three-year intervals shall take place at the general election in May of the years designated by charter. The persons so elected shall enter upon the duties of their offices on July 1 succeeding their election and remain in office until their successors have qualified.

§ 24.2-222.1. *Alternative election of mayor and council at November general election in cities and towns.*

A. *Notwithstanding the provisions of § 24.2-222, the council of a city or town may provide by ordinance that the mayor, if an elected mayor is provided for by charter, and council shall be elected at the November general election date, for terms to commence January 1. No such ordinance shall be adopted between January 1 and the May general election date of the year in which city or town*

*elections regularly are scheduled to be held therein.*

*B. Alternatively, the registered voters of a city or town may file a petition with the circuit court of the city or of the county within which the town is located asking that a referendum be held on the question of whether the city or town should elect the mayor, if an elected mayor is provided for by charter, and council members at the November general election date. The petition shall be signed by registered voters equal in number to at least ten percent of the number registered in the city or town on the January 1 preceding the filing.*

*The court, pursuant to § 24.2-684, shall order the election officials on a day fixed in the order to conduct a referendum on the question, provided that no such referendum shall be scheduled between January 1 and the May general election date of the year in which city or town elections regularly are scheduled to be held therein. The clerk of the court shall publish notice of the referendum once a week for the three consecutive weeks prior to the referendum in a newspaper having general circulation in the city or town, and shall post a copy of the notice at the door of the courthouse of the city or county within which the town is located. The question on the ballot shall be:*

*"Shall the (city or town) change the election date of the mayor (if so provided by charter) and members of council from the May general election to the November general election?"*

*If members of the school board in the city or town are elected by the voters, the ballot question also shall state that the change in election date applies to the election of school board members.*

*The referendum shall be held and the results certified as provided in § 24.2-684. If a majority of the voters voting in the referendum vote in favor of the change, the mayor and council thereafter shall be elected at the November general election date for terms to commence January 1.*

*C. No term of a mayor or member of council shall be shortened in implementing the change to the November election date. Mayors and members of council who were elected at a May general election and whose terms are to expire as of June 30 shall continue in office until their successors have been elected at the November general election and have been qualified to serve.*

§ 24.2-223. Election and term of school board members.

In any county, city or town wherein members of the school board are elected, pursuant to Article 7 (§ 22.1-57.1 et seq.) of Chapter 5 of Title 22.1, elections shall be held to coincide with the election of members of the governing body at the regular general election in November ~~in a county~~ or the regular general election in May ~~in a city or town~~, as the case may be. Elected school board members shall serve terms which are the same as those of the governing body, to commence on January 1 following their election ~~in a county~~ or July 1 following their election ~~in a city or town~~, as the case may be. ~~In no event shall any election of school board members take place prior to 1994.~~

§ 24.2-226. Election to fill vacancy.

A. A vacancy in any elected ~~constitutional~~ or local office, whether occurring when for any reason an officer-elect does not take office or occurring after an officer begins his term, shall be filled by special election except as provided for certain towns by § 24.2-228 ~~or for constitutional officers as provided in § 24.2-228.1~~, or unless provided otherwise by statute or charter. The governing body or, in the case of an elected school board, the school board of the county, city, or town in which the vacancy occurs shall, within fifteen days of the occurrence of the vacancy, petition the circuit court to issue a writ of election to fill the vacancy as set forth in Article 5 (§ 24.2-681 et seq.) of Chapter 6. Either upon receipt of the petition or on its own motion, the court shall issue the writ ordering the election for the next ensuing general election to be held in November in the case of county ~~officers and city constitutional officers~~, city, ~~or town officers regularly elected in November~~, or in May in the case of other city and town officers. If the vacancy occurs within 120 days prior to that election, however, the writ shall order the election to be held at the second ensuing such general election. The person so elected shall hold the office for the remaining portion of the regular term of the office for which the vacancy is being filled.

B. Notwithstanding any provision of law or charter to the contrary, no election to fill a vacancy shall be ordered or held if the general election at which it is to be called is scheduled within sixty days of the end of the term of the office to be filled.

C. Notwithstanding any provision of law or charter to the contrary, when an interim appointment to a vacancy in any governing body or elected school board has been made by the remaining members thereof, no election to fill the vacancy shall be ordered or held if the general election at which it is to be called is scheduled in the year in which the term expires.

§ 24.2-311. Effective date of decennial redistricting measures; elections following decennial redistricting.

A. Legislation enacted to accomplish the decennial redistricting of congressional and General Assembly districts required by Article II, Section 6 of the Constitution of Virginia shall take effect immediately. Members of Congress and the General Assembly in office on the effective date of the decennial redistricting legislation shall complete their terms of office. The elections for their successors shall be held at the November general election next preceding the expiration of the terms of office of the incumbent members and shall be conducted on the basis of the districts set out in the legislation to accomplish the decennial redistricting.

B. Ordinances adopted by local governing bodies to accomplish the decennial redistricting of districts

for county, city, and town governing bodies required by Article VII, Section 5 of the Constitution of Virginia shall take effect immediately. Members of county, city, and town governing bodies in office on the effective date of a decennial redistricting measure shall complete their terms of office. The elections for their successors shall be held at the general election next preceding the expiration of the terms of office of the incumbent members and shall be conducted on the basis of the districts set out in the measures to accomplish the decennial redistricting.

C. If a vacancy in any such office occurs after the effective date of a decennial redistricting measure and a special election is required by law to fill the vacancy, the vacancy shall be filled from the district in the decennial redistricting measure which most closely approximates the district in which the vacancy occurred.

D. If a decennial redistricting measure adopted by a local governing body adds one or more districts and also increases the size of the governing body, an election for the additional governing body member or members to represent the additional district or districts for the full or partial term provided by law shall be held at the next November general election in any county or *in any city or town that regularly elects its governing body in November pursuant to § 24.2-222.1, or at the next May general election in any other city or town*, which occurs at least 120 days after the effective date of the redistricting measure.

E. In the event of a conflict between the provisions of a decennial redistricting measure and the provisions of the charter of any locality, the provisions of the redistricting measure shall be deemed to override the charter provisions to the extent required to give effect to the redistricting plan.

§ 24.2-503. Deadlines for filing required statements; extensions.

The written statements of qualification and economic interests shall be filed by (i) primary candidates not later than the filing deadline for the primary, (ii) all other candidates for city and town offices *to be filled at a May general election* by 7:00 p.m. on the first Tuesday in March, (iii) candidates in special elections by the time of qualifying as a candidate, and (iv) all other candidates by 7:00 p.m. on the second Tuesday in June.

A statement shall be deemed to be timely filed if it is mailed postage prepaid to the appropriate office by registered or certified mail and if the official receipt therefor, which shall be exhibited on demand, shows mailing within the prescribed time limits.

The State Board may grant an extension of any deadline for filing either or both written statements and shall notify all candidates who have not filed their statements of the extension. Any extension shall be granted for a fixed period of time of ten days from the date of the mailing of the notice of the extension.