

VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

CHAPTER 27

An Act to amend and reenact §§ 24.2-103, 24.2-109, 24.2-110, 24.2-230, and 24.2-234 of the Code of Virginia and to amend the Code of Virginia by adding in Article 3 of Chapter 1 of Title 24.2 a section numbered 24.2-109.1, relating to powers and duties of the State Board of Elections and local electoral boards; appointments, terms, and removal of certain public officials, including general registrars.

[H 1266]

Approved March 2, 2004

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-103, 24.2-109, 24.2-110, 24.2-230, and 24.2-234 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 1 of Title 24.2 a section numbered 24.2-109.1 as follows:

§ 24.2-103. Powers and duties in general.

A. The State Board shall supervise and coordinate the work of the county and city electoral boards and of the registrars to obtain uniformity in their practices and proceedings and legality and purity in all elections. It shall make rules and regulations and issue instructions and provide information to the electoral boards and registrars to promote the proper administration of election laws. Electoral boards and registrars shall provide information requested by the Board.

The Board shall ensure that the members of the electoral boards and general registrars are properly trained to carry out their duties by offering training annually, or more often, as it deems appropriate.

B. The Board may institute proceedings pursuant to § 24.2-234 for the removal of any member of an electoral board or other election official who fails to discharge the duties of his office in accordance with law. The Board may petition the local electoral board to remove from office, on notice, any general registrar who fails to discharge the duties of his office according to law. The Board may institute proceedings pursuant to § 24.2-234 for the removal of a general registrar if the local electoral board refuses to remove the general registrar and the State Board finds that the failure to remove the general registrar has a material adverse effect upon the conduct of either the registrar's office or any election. Any action taken by the Board pursuant to this subsection shall require a recorded majority vote of the Board.

C. The Board may petition a circuit court or the Supreme Court, whichever is appropriate, for a writ of mandamus or prohibition, or other available legal relief, for the purpose of ensuring that elections are conducted as provided by law.

The Board shall adopt a seal for its use and bylaws for its own proceedings.

§ 24.2-109. Appointment and removal of general registrar and officers of election; powers and duties in general.

A. Each electoral board shall appoint the general registrar for its city or county and officers of election for each precinct who shall serve in all elections, including town elections, as provided in this chapter. The secretary of the electoral board shall promptly notify each appointee of his appointment.

The electoral board by a recorded majority vote may remove from office, on notice, any general registrar or officer of election who fails to discharge the duties of his office according to law.

B. The electoral board shall perform the duties assigned by this title including, but not limited to, the preparation of ballots, the administration of absentee ballot provisions, the conduct of the election, and the ascertaining of the results of the election.

§ 24.2-109.1. Performance review of general registrars.

The electoral board shall conduct an annual performance review of the general registrar for years ending June 30, 2006, and thereafter. The electoral board shall complete the review by August 1 of each year, retain a copy of the performance review, and provide a copy of the review to the State Board. The performance review shall be conducted in accordance with the format and forms provided by the State Board.

§ 24.2-110. Appointment, qualifications, and term of general registrar; vacancies; certain prohibitions.

Each electoral board shall meet in the first week in March 1995 month of May or June in 2007, and every four years thereafter, and shall appoint a general registrar, who shall be a qualified voter of the county or city for which he is appointed. General registrars shall serve four-year terms beginning April July 1, 1995 2007, and each fourth year thereafter, and continue in office until a successor is appointed and qualifies.

The electoral board shall fill any vacancy in the office of general registrar for the unexpired term. The electoral board shall declare vacant and fill the office of the general registrar if the appointee fails to qualify and deliver a copy of his oath to the secretary of the electoral board within thirty 30 days

after he has been notified of his appointment.

No general registrar shall hold any other office, by election or appointment, while serving as general registrar; however, with the consent of the electoral board, he may undertake other duties which do not conflict with his duties as general registrar. General registrars shall not serve as officers of election. The election or appointment of a general registrar to any other office shall vacate the office of the general registrar.

No general registrar shall be eligible to offer for or hold an office to be filled by election in whole or in part by the qualified voters of his jurisdiction at any election held during the time he serves as general registrar or for the six months thereafter.

The electoral board shall not appoint to the office of general registrar any person who is the spouse of an electoral board member or any person, or the spouse of any person, who is the parent, grandparent, sibling, child, or grandchild of an electoral board member.

No general registrar shall serve as the chairman of a political party or other officer of a state, local or district level political party committee. No general registrar shall serve as a paid or volunteer worker in the campaign of a candidate for nomination or election to an office filled by election in whole or in part by the qualified voters of his jurisdiction. The restrictions of this paragraph shall apply to paid assistant registrars but shall not apply to unpaid assistant registrars.

§ 24.2-230. Applicability of article; certain exceptions.

This article shall apply to all elected or appointed Commonwealth, constitutional, and local officers, except officers for whose removal the Constitution of Virginia specifically provides.

However, an appointed officer shall be removed from office only by the person or authority who appointed him unless he is sentenced for a crime as provided for in § 24.2-231 or is determined to be "mentally incompetent" as provided for in § 24.2-232. This exception shall not apply to an officer who is (i) appointed to fill a vacancy in an elective office or (ii) appointed to an office for a term established by law and the appointing person or authority is not given the unqualified power of removal.

This article shall be applicable to members of local electoral boards and general registrars, but shall not be applicable to assistant registrars who may be removed from office by the general registrar pursuant to § 24.2-112 or to officers of election who may be removed from office by the local electoral board pursuant to § 24.2-109.

§ 24.2-234. Removal of officer appointed for a term certain.

Any officer appointed to an office for a term established by law may be removed from office, under the provisions of § 24.2-233, upon a petition filed with the circuit court in whose jurisdiction the officer resides signed by the person or a majority of the members of the authority who appointed him, if the appointing person or authority is not given the unqualified power of removal.

~~In the case of a member of a county or city electoral board, The circuit court also shall proceed for removal of a member pursuant to § 24.2-235 for the removal of a member of a local electoral board or general registrar upon a petition signed by a majority of the members of the State Board of Elections as provided in § 24.2-103.~~

2. That the terms of office of general registrars serving on the effective date of this act shall be extended to midnight June 30, 2007.

3. That the annual performance review of general registrars provided for in § 24.2-109.1 shall be based on the format and forms developed by the State Board of Elections in consultation with representatives of the Virginia Electoral Board Association and the Voter Registrars Association of Virginia and shall be made available to local electoral boards by July 1, 2005.