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HOUSE BILL NO. 42

Offered January 9, 2008

Prefiled December 5, 2007

A BILL to amend and reenact §§ 24.2-202, 24.2-203, 24.2-542, 24.2-542.1, 24.2-543, and 24.2-673 of the Code of Virginia, relating to electors for President and Vice President and results of elections.

Patrons—Scott, J.M., Brink and Englin

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-202, 24.2-203, 24.2-542, 24.2-542.1, 24.2-543, and 24.2-673 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-202. Electors for President and Vice President.

The qualified voters of the Commonwealth shall choose the Commonwealth's electors for President and Vice President of the United States at the general election in November 1996 2008, and every fourth year thereafter. Each voter shall vote for a number of electors which equals the whole number of senators and representatives to which the Commonwealth at that time is entitled in the Congress of the United States a slate of electors for President and Vice President, including two at-large electors and one congressional district elector for his congressional district.

Receipt by the slate of presidential electors of the highest number of votes statewide shall constitute the election of the two at-large electors of that slate. Receipt by the slate of presidential electors of the highest number of votes in a congressional district shall constitute the election of the congressional district elector of that slate.

§ 24.2-203. Convening of electors; filling vacancies; how electors required to vote.

The electors shall convene at the capitol building in the capital city of the Commonwealth at 12:00 noon on the first Monday after the second Wednesday in December following their election. Those electors present shall immediately fill, by ballot and by a plurality of votes, any vacancy due to death, failure, or inability to attend, refusal to act, or other cause. When all electors are present, or the vacancies have been filled, they shall proceed to perform the duties required of such electors by the Constitution and laws of the United States.

Electors selected by the state convention of any political party as defined in § 24.2-101 shall be required to vote for the nominees of the national convention to which the state convention elects delegates. Electors named in any petition of qualified voters as provided in § 24.2-543 shall be required to vote for the persons named for President and for Vice President in the petition.

The at-large presidential electors shall vote for the candidates for President and Vice President who received the highest number of votes in the Commonwealth. Each congressional district elector shall vote for the candidates for President and Vice President who received the highest number of votes in that congressional district.

§ 24.2-542. State Board to be furnished names of electors selected by political parties; oaths of electors.

In elections for President and Vice President of the United States, the appropriate chairman or secretary of each political party shall furnish to the State Board by noon of the seventy-fourth day before the presidential election (i) the names of the at-large and congressional district electors selected by the party at its convention held for that purpose, together with the names of the political party and of the candidates for President and Vice President for whom the electors are required to vote in the Electoral College and (ii) a copy of a subscribed and notarized oath by each elector stating that he will, if elected, cast his ballot for the candidates for President and Vice President nominated by the party that selected the elector, or as the party may direct in the event of death, withdrawal, or disqualification of the party nominee. There shall be selected one elector who is a resident of each congressional district and two electors from the Commonwealth at large.

In the event of the death or withdrawal of a candidate of a political party for President or Vice President, that party may substitute the name of a different candidate before the State Board certifies to the county and city electoral boards the form of the official ballots. The State Board shall also be furnished, if it requests, with satisfactory evidence that any person undertaking to act as an elector on behalf of any political party is, in fact, duly and properly authorized to do so.

§ 24.2-542.1. State Board to be furnished names of electors selected by political parties; certain national conventions.

Notwithstanding the provisions of § 24.2-542, (i) the state political party chairman of a political party

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59 whose national convention has been scheduled to be held after the seventy-fourth day before the
60 presidential election, shall file by noon on the seventy-fourth day before the presidential election, with
61 the certification of its at-large *and congressional district* electors, a certification of the persons expected
62 to be nominated for President and Vice President at its national convention; (ii) the State Board of
63 Elections shall certify candidates to the local electoral boards and ballot preparation shall proceed based
64 on the state party chairman's certifications; and (iii) the persons nominated by the party at its national
65 convention shall be certified to the State Board no later than 5:00 p.m. on the sixtieth day before the
66 presidential election.

67 § 24.2-543. How other groups may submit names of electors; oaths of electors.

68 A group of qualified voters, not constituting a political party as defined in § 24.2-101, may have the
69 names of electors selected by them, including one elector residing in each congressional district and two
70 from the Commonwealth at large, printed upon the official ballot to be used in the election of electors
71 for President and Vice President by filing a petition pursuant to this section. The petition shall be filed
72 with the State Board by noon of the seventy-fourth day before the presidential election. The petition
73 shall be signed by at least 10,000 qualified voters and include signatures of at least 400 qualified voters
74 from each congressional district. The petition shall be signed by petitioners on and after January 1 of the
75 year of the presidential election only and contain the residence address of each petitioner. The signature
76 of each petitioner shall be witnessed by a person who is a qualified voter, or qualified to register to
77 vote, and whose affidavit to that effect appears on each page of the petition. The petition shall state the
78 names of the *at-large and congressional district* electors selected by the petitioners, the party name
79 under which they desire the named electors to be listed on the ballot, and the names of the candidates
80 for President and Vice President for whom the electors are required to vote in the Electoral College. The
81 persons filing the petition shall file with it a copy of a subscribed and notarized oath by each elector
82 stating that he will, if elected, cast his ballot for the candidates for President and Vice President named
83 in the petition, or as the party may direct in the event of death, withdrawal, or disqualification of the
84 party nominee. In order to utilize a selected party name on the ballot, the petitioners shall have had a
85 state central committee composed of registered voters from each congressional district of the
86 Commonwealth, a party plan and bylaws, and a duly designated chairman and secretary in existence and
87 holding office for at least six months prior to filing the petition. The State Board may require proof that
88 the petitioners meet these requirements before permitting use of a party name on the ballot. The party
89 name shall not be identical with or substantially similar to the name of any political party qualifying
90 under § 24.2-101 and then in existence.

91 In the event of the death or withdrawal of a candidate for President or Vice President qualified to
92 appear on the ballot by party name, that party may substitute the name of a different candidate before
93 the State Board certifies to the county and city electoral boards the form of the official ballots.

94 In the event that a group of qualified voters meets the requirements set forth in this section except
95 that they cannot utilize a party name, the electors selected and the candidates for President and Vice
96 President shall be identified and designated as "Independent" on the ballot. Substitution of a different
97 candidate for Vice President may be made by the candidate for President before the State Board certifies
98 to the county and city electoral boards the form of the official ballot.

99 § 24.2-673. Candidates having highest number of votes to receive certificate of election.

100 Except in the case of a *presidential election pursuant to §§ 24.2-202 and 24.2-203* or a recount
101 pursuant to the provisions of Chapter 8 (§ 24.2-800 et seq.) of this title, in all elections for the choice of
102 any officer, unless it is otherwise expressly provided, the person having the highest number of votes for
103 any office shall be deemed to have been elected to such office and shall receive the certificate of
104 election.