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HOUSE BILL NO. 1667

Offered January 12, 2011

Prefiled January 10, 2011

A BILL to amend and reenact §§ 24.2-515, 24.2-543, 24.2-544, and 24.2-545 of the Code of Virginia, relating to presidential elections and primaries; petitions and procedures.

Patron—McClellan

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-515, 24.2-543, 24.2-544, and 24.2-545 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-515. Presidential year primaries.

Primaries for the nomination of candidates for offices to be voted on at the general election date in November shall be held on the second Tuesday in June next preceding such election, except that beginning with the year ~~2004~~ 2012 and in presidential election years thereafter, primaries to choose among presidential candidates may be held as provided below in Article 7 (§ 24.2-544 et seq.) of this chapter on the second Tuesday in February. Primaries for the nomination of candidates for offices to be voted on at the general election date in May shall be held on the first Tuesday in March next preceding such election, except that beginning with the year 2004 and in presidential election years thereafter, primaries for the nomination of candidates for offices to be voted on at the general election date in May shall be held as described below in Article 7 of this chapter on the second Tuesday in February.

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

A group of qualified voters, not constituting a political party as defined in § 24.2-101, may have the names of electors selected by them, including one elector residing in each congressional district and two from the Commonwealth at large, printed upon the official ballot to be used in the election of electors for President and Vice President by filing a petition pursuant to this section. The petition shall be filed with the State Board by noon of the seventy-fourth day before the presidential election. The petition shall be signed by at least ~~40,000~~ 5,000 qualified voters and include signatures of at least 400 qualified voters from each congressional district. The petition shall be signed by petitioners on and after January 1 of the year of the presidential election only and contain the residence address of each petitioner. The signature of each petitioner shall be witnessed by a person who is a qualified voter, or qualified to register to vote, and whose affidavit to that effect appears on each page of the petition. The petition shall state the names of the electors selected by the petitioners, the party name under which they desire the named electors to be listed on the ballot, and the names of the candidates for President and Vice President for whom the electors are required to vote in the Electoral College. The persons filing the petition shall file with it 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 named in the petition, or as the party may direct in the event of death, withdrawal or disqualification of the party nominee. In order to utilize a selected party name on the ballot, the petitioners shall have had a state central committee composed of registered voters from each congressional district of the Commonwealth, a party plan and bylaws, and a duly designated chairman and secretary in existence and holding office for at least six months prior to filing the petition. The State Board may require proof that the petitioners meet these requirements before permitting use of a party name on the ballot. The party name shall not be identical with or substantially similar to the name of any political party qualifying under § 24.2-101 and then in existence.

In the event of the death or withdrawal of a candidate for President or Vice President qualified to appear on the ballot by party name, 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.

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

§ 24.2-544. Time presidential primaries to be held and completion of duties by officers of election; age qualifications for participation.

A. Primaries for the nomination of candidates for the office of President of the United States to be voted on at the November ~~2004~~ 2012 general election, and the November general election in each

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59 presidential election year thereafter, shall be held on the ~~second~~ *first* Tuesday in ~~February~~ *March*
60 preceding the November general election. ~~Primaries for the nomination of candidates for all offices to be~~
61 ~~voted on at the May 2004 general election; and the May general election in each presidential election~~
62 ~~year thereafter, shall be held on the second Tuesday in February preceding the May general election.~~

63 B. The provisions of this title shall apply to the conduct of presidential year primaries including the
64 time limits applicable to notices and candidate filing deadlines and the closing of registration records
65 before the primary. The State Board shall provide a schedule for the notices and filing deadlines by the
66 August 1 prior to the ~~February~~ *March* primary including a campaign finance disclosure report filing
67 schedule adjusted to reflect the differences between the June date for other primaries and the ~~February~~
68 *March* date for the presidential primary; ~~and the March and February primary dates and primaries for~~
69 ~~the nomination of candidates for offices to be voted on at the general election date in May.~~

70 C. Notwithstanding any other provision of law to the contrary, any officer of election who serves at
71 any election held on the ~~second~~ *first* Tuesday in ~~February~~ *March* shall be required to complete his
72 official duties relating to that election whether or not he has been reappointed to serve for the ensuing
73 year.

74 D. Notwithstanding any other provision of law to the contrary, any person who is otherwise qualified
75 and will be 18 years of age on or before the day of the next November general election shall be
76 permitted to register in advance of and also vote in any presidential primary and any other primary held
77 on the same day.

78 § 24.2-545. Presidential primary.

79 A. The duly constituted authorities of the state political party shall have the right to determine the
80 method by which the state party will select its delegates to the national convention to choose the party's
81 nominees for President and Vice President of the United States including a presidential primary or
82 another method determined by the party. The state chairman shall notify the State Board of the party's
83 determination at least 90 days before the primary date. If the party has determined that it will hold a
84 presidential primary, each registered voter of the Commonwealth shall be given an opportunity to
85 participate in the presidential primary of the political party, as defined in § 24.2-101, subject to
86 requirements determined by the political party for participation in its presidential primary. The
87 requirements may include, but shall not be limited to, the signing of a pledge by the voter of his
88 intention to support the party's candidate when offering to vote in the primary. The requirements
89 applicable to a party's primary shall be determined at least 90 days prior to the primary date and
90 certified to, and approved by, the State Board.

91 B. Any person seeking the nomination of the national political party for the office of President of the
92 United States, or any group organized in this Commonwealth on behalf of, and with the consent of such
93 person, may file with the State Board petitions signed by at least ~~40,000~~ *5,000* qualified voters,
94 including at least 400 qualified voters from each congressional district in the Commonwealth, who attest
95 that they intend to participate in the primary of the same political party as the candidate for whom the
96 petitions are filed. Such petitions shall be filed with the State Board by the primary filing deadline. The
97 petitions shall be on a form prescribed by the State Board and shall be sealed in one or more containers
98 to which is attached a written statement giving the name of the presidential candidate and the number of
99 signatures on the petitions contained in the containers. Such person or group shall also attach a list of
100 the names of persons who would be elected delegates and alternate delegates to the political party's
101 national convention if the person wins the primary and the party has determined that its delegates will
102 be selected pursuant to the primary. The slate of delegates and alternates shall comply with the rules of
103 the national and state party.

104 The State Board shall transmit the material so filed to the state chairman of the party of the
105 candidate immediately after the primary filing deadline. The sealed containers containing the petitions
106 for a candidate may be opened only by the state chairman of the party of the candidate. The state
107 chairman of the party shall, by the deadline set by the State Board, furnish to the State Board the names
108 of all candidates who have satisfied the requirements of this section. Whenever only one candidate for a
109 party's nomination for President of the United States has met the requirements to have his name on the
110 ballot, he will be declared the winner and no presidential primary for that party will be held.

111 C. The names of all candidates in the presidential primary of each political party shall appear on the
112 ballot in an order determined by lot by the State Board.

113 D. The State Board shall certify the results of the presidential primary to the state chairman. If the
114 party has determined that its delegates and alternates will be selected pursuant to the primary, the slate
115 of delegates and alternates of the candidate receiving the most votes in the primary shall be deemed
116 elected by the state party. If the party has determined to use another method for selecting delegates and
117 alternates, those delegates and alternates shall be bound to vote on the first ballot at the national
118 convention for the candidate receiving the most votes in the primary unless that candidate releases those
119 delegates and alternates from such vote.

120 E. The election, or binding of votes, of delegates to a political party's national convention for the

121 nomination of that party's candidates for President and Vice President of the United States through the
122 presidential primary process shall be considered to be equivalent to a primary for the nomination of a
123 party's candidate.
124 F. The cost of the presidential primary shall be paid by the Commonwealth pursuant to the
125 provisions of the appropriation act.

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