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SENATE BILL NO. 1049

AMENDMENT IN THE NATURE OF A SUBSTITUTE
 (Proposed by the Senate Committee on Privileges and Elections
 on January 29, 2013)

(Patron Prior to Substitute—Senator Edwards)

A BILL to amend and reenact §§ 24.2-101, 24.2-424, 24.2-506, 24.2-543, and 24.2-612 of the Code of Virginia, relating to candidate petitions and qualification to have the candidate's name appear on the ballot.

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-101, 24.2-424, 24.2-506, 24.2-543, and 24.2-612 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-101. Definitions.

As used in this title, unless the context requires a different meaning:

"Candidate" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. "Candidate" shall include a person who seeks the nomination of a political party or who, by reason of receiving the nomination of a political party for election to an office, is referred to as its nominee. For the purposes of Chapters 8 (§ 24.2-800 et seq.), 9.3 (§ 24.2-945 et seq.), and 9.5 (§ 24.2-955 et seq.), "candidate" shall include any write-in candidate. However, no write-in candidate who has received less than 15 percent of the votes cast for the office shall be eligible to initiate an election contest pursuant to Article 2 (§ 24.2-803 et seq.) of Chapter 8. For the purposes of Chapters 9.3 (§ 24.2-945 et seq.) and 9.5 (§ 24.2-955 et seq.), "candidate" shall include any person who raises or spends funds in order to seek or campaign for an office of the Commonwealth, excluding federal offices, or one of its governmental units in a party nomination process or general, primary, or special election; and such person shall be considered a candidate until a final report is filed pursuant to Article 3 (§ 24.2-947 et seq.) of Chapter 9.3.

"Central absentee voter precinct" means a precinct established by a county or city pursuant to § 24.2-712 for the processing of absentee ballots for the county or city or any combination of precincts within the county or city.

"Constitutional office" or "constitutional officer" means a county or city office or officer referred to in Article VII, Section 4 of the Constitution of Virginia: clerk of the circuit court, attorney for the Commonwealth, sheriff, commissioner of the revenue, and treasurer.

"Election" means a general, primary, or special election.

"Election district" means the territory designated by proper authority or by law which is represented by an official elected by the people, including the Commonwealth, a congressional district, a General Assembly district, or a district for the election of an official of a county, city, town, or other governmental unit.

"Electoral board" or "local electoral board" means a board appointed pursuant to § 24.2-106 to administer elections for a county or city. The electoral board of the county in which a town or the greater part of a town is located shall administer the town's elections.

"Entrance of polling place" or "entrance to polling place" means an opening in the wall used for ingress to a structure.

"General election" means an election held in the Commonwealth on the Tuesday after the first Monday in November or on the first Tuesday in May for the purpose of filling offices regularly scheduled by law to be filled at those times.

"Officer of election" means a person appointed by an electoral board pursuant to § 24.2-115 to serve at a polling place for any election.

"Party" or "political party" means an organization of citizens of the Commonwealth which, at either of the two preceding statewide general elections, received at least 10 percent of the total vote cast for any statewide office filled in that election. The organization shall have a state central committee and an office of elected state chairman which have been continually in existence for the six months preceding the filing of a nominee for any office.

"Person with a disability" means a person with a disability as defined by the Virginians with Disabilities Act (§ 51.5-1 et seq.).

"Polling place" means the structure that contains the one place provided for each precinct at which the qualified voters who are residents of the precinct may vote.

"Precinct" means the territory designated by the governing body of a county, city, or town to be served by one polling place.

"Primary" or "primary election" means an election held for the purpose of selecting a candidate to be

60 the nominee of a political party for election to office.

61 "Qualified voter" means a person who is entitled to vote pursuant to the Constitution of Virginia and
62 who is (i) 18 years of age on or before the day of the election or qualified pursuant to § 24.2-403 or
63 subsection D of § 24.2-544, (ii) a resident of the Commonwealth and of the precinct in which he offers
64 to vote, and (iii) a registered ~~to vote~~ voter. No person who has been convicted of a felony shall be a
65 qualified voter unless his civil rights have been restored by the Governor or other appropriate authority.
66 No person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished
67 as provided by law. *Whether a signature should be counted towards satisfying the signature requirement*
68 *of any petition shall be determined based on the signer of the petition's qualification to vote. For*
69 *purposes of determining if a signature on a petition shall be included in the count toward meeting the*
70 *signature requirements of any petition, "qualified voter" shall include only persons maintained on the*
71 *Virginia voter registration system (a) with active status and (b) with inactive status who are qualified to*
72 *vote for the office for which the petition was circulated.*

73 "Qualified voter in a town" means a person who is a resident within the corporate boundaries of the
74 town in which he offers to vote, duly registered in the county of his residence, and otherwise a qualified
75 voter.

76 "Referendum" means any election held pursuant to law to submit a question to the voters for
77 approval or rejection.

78 "Registered voter" means any person who is maintained on the Virginia voter registration system. All
79 registered voters shall be maintained on the Virginia voter registration system with active status unless
80 assigned to inactive status by a general registrar in accordance with Chapter 4 (§ 24.2-400 et seq.). For
81 purposes of applying the precinct size requirements of § 24.2-307, calculating election machine
82 requirements pursuant to Article 3 (§ 24.2-625 et seq.) of Chapter 6, mailing notices of local election
83 district, precinct or polling place changes as required by subdivision 13 of § 24.2-114 and § 24.2-306,
84 and determining the number of signatures required for candidate and voter petitions, "registered voter"
85 shall include only persons maintained on the Virginia voter registration system with active status. *For*
86 *purposes of determining if a signature on a petition shall be included in the count toward meeting the*
87 *signature requirements of any petition, "registered voter" shall include only persons maintained on the*
88 *Virginia voter registration system (i) with active status and (ii) on inactive status who are qualified to*
89 *vote for the office for which the petition was circulated.*

90 "Registration records" means all official records concerning the registration of qualified voters and
91 shall include all records, lists, applications, and files, whether maintained in books, on cards, on
92 automated data bases, or by any other legally permitted record-keeping method.

93 "Residence" or "resident," for all purposes of qualification to register and vote, means and requires
94 both domicile and a place of abode. To establish domicile, a person must live in a particular locality
95 with the intention to remain. A place of abode is the physical place where a person dwells.

96 "Special election" means any election that is held pursuant to law to fill a vacancy in office or to
97 hold a referendum.

98 "State Board" or "Board" means the State Board of Elections.

99 "Virginia voter registration system" or "voter registration system" means the automated central
100 record-keeping system for all voters registered within the Commonwealth that is maintained as provided
101 in Article 2 (§ 24.2-404 et seq.) of Chapter 4.

102 **§ 24.2-424. Change of registered voter's address within the Commonwealth; pilot project.**

103 A. Whenever a registered voter changes his place of residence within the Commonwealth, he shall
104 promptly notify any general registrar of the address of his new residence. Such notice may be made in
105 person, in writing, by return of the voter registration card noting the new address, or on a form
106 approved by the State Board of Elections, which may be electronic. The notice in writing may be
107 provided by mail or by facsimile and shall be signed by the voter unless he is physically unable to sign,
108 in which case his own mark acknowledged by a witness shall be sufficient signature. The State Board is
109 authorized to conduct a pilot program, under which electronic notice may be provided by electronic mail
110 or such other electronic means as may be permitted by the State Board and signed by the voter in a
111 manner consistent with the Uniform Electronic Transactions Act (§ 59.1-479 et seq.). The fact that a
112 voter provides an address on a candidate or referendum petition that differs from the address for the
113 voter on the voter registration system shall not be ~~deemed~~ sufficient notice; ~~in and of itself~~, to change
114 the voter's registration address. Any statements made by any voter applying for transfer are subject to
115 felony penalties for making a false statement pursuant to § 24.2-1016.

116 B. If the voter has moved within the same county or city, on receipt of the notification, the general
117 registrar for that county or city shall (i) enter the new address on the registration record; (ii) if satisfied
118 that the registered voter has moved into another precinct within the same county or city, transfer the
119 registration of the voter to that precinct; and (iii) issue the voter a new voter registration card. This
120 transfer may be entered in the registration records at any time the registration records are not closed
121 pursuant to § 24.2-416.

C. Any request for transfer or change of address within the Commonwealth delivered to any registrar shall be forwarded to the general registrar for the city or county in the Commonwealth where the voter now resides. When forwarding said notice, or upon request from the registrar for the county or city where the voter now resides, the registrar for the county or city where the voter formerly resided shall forward the original application for registration to the registrar for the voter's new locality.

D. Upon receipt of the voter's original registration application, and notice as specified in subsection A of this section indicating the voter's current residence, the registrar for the county or city in which the voter currently resides shall: (i) enter the new address on the registration record; (ii) if satisfied that the registered voter has moved into a precinct within that county or city, transfer the registration of the voter to that precinct; (iii) issue the voter a new voter registration card; and (iv) through the Virginia voter registration system, notify the registrar of the locality where the voter formerly resided that the registration has been transferred. This transfer may be entered in the registration records at any time the registration records are not closed pursuant to § 24.2-416.

E. If the original registration application is no longer available to the registrar in the city or county where the voter formerly resided, either of the following shall be sent to and accepted by the registrar in the city or county where the voter now resides in lieu of such application: (i) an unsigned voter card (or "conversion card") used as the voter record upon the creation of the statewide voter registration system or (ii) a replacement record provided by the State Board to replace damaged files in the registrar's office. If no other record is available, then the registrar of the voter's former locality shall provide written notification to the registrar of the locality in which the voter now resides that none of the required documents are available. In this instance only, the registrar of the locality in which the voter now resides shall copy the voter's record from the Virginia voter registration system and use that record in lieu of the original voter registration application. Any complete voter registration application on a form previously authorized for use in Virginia shall be valid for the purposes of continuing or transferring a voter's registration within the Commonwealth.

§ 24.2-506. Petition of qualified voters required; number of signatures required; certain towns excepted.

A. The name of any candidate for any office, other than a party nominee, shall not be printed upon any official ballots provided for the election unless he shall file along with his declaration of candidacy a petition therefor, on a form prescribed by the State Board, signed by the number of qualified voters specified below after January 1 of the year in which the election is held and listing the residence address of each such voter. Each signature on the petition shall have been witnessed by a person who is himself a legal resident of the Commonwealth and who is not a minor or a felon whose voting rights have not been restored and whose affidavit to that effect appears on each page of the petition.

Each voter signing the petition may provide on the petition the last four digits of his social security number, if any; however, noncompliance with this requirement shall not be cause to invalidate the voter's signature on the petition.

The minimum number of signatures of qualified voters required for candidate petitions shall be as follows:

1. For a candidate for the United States Senate, Governor, Lieutenant Governor, or Attorney General, 10,000 signatures, including the signatures of at least 400 qualified voters from each congressional district in the Commonwealth;

2. For a candidate for the United States House of Representatives, 1,000 signatures;

3. For a candidate for the Senate of Virginia, 250 signatures;

4. For a candidate for the House of Delegates or for a constitutional office, 125 signatures;

5. For a candidate for membership on the governing body or elected school board of any county or city, 125 signatures; or if from an election district not at large containing 1,000 or fewer registered voters, 50 signatures;

6. For a candidate for membership on the governing body or elected school board of any town which has more than 1,500 registered voters, 125 signatures; or if from a ward or other district not at large, 25 signatures;

7. For membership on the governing body or elected school board of any town which has 1,500 or fewer registered voters, no petition shall be required;

8. For a candidate for director of a soil and water conservation district created pursuant to Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1, 25 signatures; and

9. For any other candidate, 50 signatures.

B. The State Board shall approve uniform standards by which petitions filed by a candidate for office, other than a party nominee, are reviewed to determine if the petitions contain sufficient signatures of qualified voters as required in subsection A.

C. If a candidate, other than a party nominee, does not qualify to have his name appear on the ballot by reason of the candidate's filed petition not containing the minimum number of signatures of

qualified voters for the office sought, the candidate may appeal that determination within five calendar days of the issuance of the notice of disqualification pursuant to § 24.2-612 or notice from the State Board that the candidate did not meet the requirements to have his name appear on the ballot.

Appeals made by candidates for a county, city, or town office shall be filed with the electoral board. Appeals made by candidates for all other offices shall be filed with the State Board. The appeal shall be heard by the State Board or the electoral board, as appropriate, within five business days of its filing. The electoral board shall notify the State Board of any appeal that is filed with the electoral board.

The State Board shall develop procedures for the conduct of such an appeal. The consideration on appeal shall be limited to whether or not the signatures on the petitions that were filed were reasonably rejected according to the requirements of this title and the uniform standards approved by the State Board for the review of petitions. Immediately after the conclusion of the appeal hearing, the entity conducting the appeal shall notify the candidate and, if applicable, the State Board, of its decision in writing. The decision on appeal shall be final and not subject to further appeal.

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

A. 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 10,000 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 either by a person who is a constitutionally qualified candidate for President of the United States, who may witness his own petition, or by a person who is a resident of the Commonwealth and who is not a minor or a felon whose voting rights have not been restored 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.

B. If the State Board determines that a candidate for President does not qualify to have his name appear on the ballot pursuant to this section by reason of the candidate's filed petition not containing the minimum number of signatures of qualified voters for the office sought, the candidate may appeal the determination to the State Board within seven calendar days of the issuance of the notice of disqualification. The notice of disqualification shall be sent by email or regular mail to the address on file for the candidate, and such notice shall be deemed sufficient. The State Board shall hear the appeal within three business days of its filing.

The State Board shall develop procedures for the conduct of such an appeal. The consideration on appeal shall be limited to whether or not the signatures on the petitions that were filed were reasonably rejected according to the requirements of this title and the rules and procedures set forth by the State Board for checking petitions. Immediately after the conclusion of the appeal hearing, the State Board shall notify the candidate of its decision in writing. The decision on appeal shall be final and not subject to further appeal.

§ 24.2-612. List of offices and candidates filed with State Board and checked for accuracy; when ballots printed; number required.

245 Immediately after the expiration of the time provided by law for a candidate for any office to qualify
246 to have his name printed on the official ballot and prior to printing the ballots for an election, each
247 electoral board shall forward to the State Board a list of the county, city, or town offices to be filled at
248 the election and the names of all candidates who have filed for each office. In addition, each electoral
249 board shall forward the name of any candidate who failed to qualify with the reason for his
250 disqualification. *On that same day, the electoral board shall also provide a copy of the notice to each*
251 *disqualified candidate. The notice shall be sent by email or regular mail to the address on the*
252 *candidate's certificate of candidate qualification, and such notice shall be deemed sufficient.* The State
253 Board shall promptly advise the electoral board of the accuracy of the list. The failure of any electoral
254 board to send the list to the State Board for verification shall not invalidate any election.

255 Each electoral board shall have printed the number of ballots it determines will be sufficient to
256 conduct the election.

257 Notwithstanding any other provisions of this title, the State Board may print or otherwise provide (i)
258 one statewide paper ballot style for each paper ballot style in use for presidential and vice-presidential
259 electors for use only by persons eligible to vote for those offices only under § 24.2-402 or clause (iii) or
260 (v) of subsection B of § 24.2-416.1 or (ii) one statewide paper ballot style for each paper ballot style in
261 use for Governor, Lieutenant Governor or Attorney General only for use as the early absentee ballot
262 specified in § 24.2-702. The State Board may apportion or authorize the printer or vendor to apportion
263 the costs for these ballots among the localities based on the number of ballots ordered. Any printer
264 employed by the State Board shall execute the statement required by § 24.2-616. The State Board shall
265 designate a representative to be present at the printing of such ballots and deliver them to the
266 appropriate electoral boards pursuant to § 24.2-617. Upon receipt of such paper ballots, the electoral
267 board shall affix its seal. Thereafter, such ballots shall be handled and accounted for, and the votes
268 counted as the State Board shall specifically direct.

269 The electoral board shall make printed ballots available for absentee voting not later than 45 days
270 prior to any election or within three business days of the receipt of a properly completed absentee ballot
271 application, whichever is later. In the case of a special election, excluding for federal offices, if time is
272 insufficient to meet the applicable deadline established herein, then the electoral board shall make
273 printed ballots available as soon after the deadline as possible. For the purposes of this chapter, making
274 printed ballots available includes mailing of such ballots or electronic transmission of such ballots
275 pursuant to § 24.2-706 to a qualified absentee voter who is eligible for an absentee ballot under
276 subdivision 2 of § 24.2-700. Not later than five days after absentee ballots are made available, each
277 electoral board shall report to the State Board, in writing on a form approved by the State Board,
278 whether it has complied with the applicable deadline.

279 Only the names of candidates for offices to be voted on in a particular election district shall be
280 printed on the ballots for that election district.

281 The electoral boards shall send to the State Board a statement of the number of paper ballots ordered
282 to be printed, proofs of each paper and voting equipment ballot for verification, and copies of each final
283 ballot. If the State Board finds that, in its opinion, the number of ballots ordered to be printed by any
284 local electoral board is not sufficient, it may direct the local board to order the printing of a reasonable
285 number of additional ballots.