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SENATE BILL NO. 723

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 Carrico)

A BILL to amend and reenact §§ 24.2-202, 24.2-542, 24.2-543, and 24.2-673 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-202.1, relating to electors for President and Vice President; allocation of electoral votes.

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-202, 24.2-542, 24.2-543, and 24.2-673 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-202.1 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, and every fourth year thereafter. Each voter shall vote for *two candidates designated as electors to which Virginia is entitled by virtue of its representation in the United States Senate and in addition 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 House of Representatives.*

§ 24.2-202.1. Allocation of electoral votes.

A. *The two electoral votes to which Virginia is entitled by virtue of its representation in the United States Senate shall be allocated to the slate of presidential electors that receives the highest number of votes cast statewide.*

B. *The total number of electoral votes to which Virginia is entitled by virtue of its representation in the United States House of Representatives shall be allocated among the slates of presidential electors according to the proportional share each slate receives of the total number of votes cast statewide for President. The allocation shall be in whole numbers and shall be determined according to the provisions of this section.*

C. *The total number of votes cast for each slate of presidential electors shall be divided by the total number of votes cast for all slates of electors, and the resulting proportion shall be multiplied by the number of electoral votes to which Virginia is entitled. The resulting numbers of electoral votes for each slate shall be rounded to the nearest whole number. No slate of electors shall be entitled to any electoral votes if its proportion of the total vote cast results in less than a full electoral vote after rounding to the nearest whole number.*

D. *If the total number of electoral votes allocated by the method described in subsection B results in a sum of electoral votes greater than that to which Virginia is entitled, the electoral vote allocated to the slate entitled to at least one electoral vote and receiving the fewest number of votes cast shall be reduced by whole electoral votes until the number of electoral votes allocated equals the number of electoral votes to which Virginia is entitled.*

E. *If the total number of electoral votes allocated by the method described in subsection B results in a sum of electoral votes that is less than the number of electoral votes to which Virginia is entitled, the slate receiving the highest number of votes shall receive any unallocated electoral votes until all the electoral votes to which Virginia is entitled have been allocated. If two or more slates have received the identical number of votes cast, the Secretary of the Commonwealth shall determine by lot which of the presidential slates shall have their numbers of electoral votes increased or decreased by a whole electoral vote until all the electoral votes to which Virginia is entitled have been allocated.*

F. *The order in which political parties pursuant to § 24.2-542, or other groups pursuant to § 24.2-543, have listed their slates of electors shall determine the individual electors who are elected. For each slate that is entitled to at least one electoral vote, the first elector listed on the slate shall be deemed to be elected and so through the party or group slate of electors until the number elected from that slate equals the number of electoral votes to which the party or group is entitled.*

§ 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 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

60 candidates for President and Vice President nominated by the party that selected the elector, or as the
61 party may direct in the event of death, withdrawal or disqualification of the party nominee. *Two electors*
62 *shall be designated as the party's candidates for the electoral votes to which Virginia is entitled by*
63 *virtue of its representation in the United States Senate, and the names of the remaining electors shall be*
64 *listed in the order in which the political party wishes to have its successful candidates for the electors*
65 *to which Virginia is entitled by virtue of its representation in the United States House of Representatives*
66 *determined pursuant to § 24.2-202.1. In the event of the death or withdrawal of a candidate of a*
67 *political party for President or Vice President, that party may substitute the name of a different*
68 *candidate before the State Board certifies to the county and city electoral boards the form of the official*
69 *ballots. The State Board shall also be furnished, if it requests, with satisfactory evidence that any person*
70 *undertaking to act as an elector on behalf of any political party is, in fact, duly and properly authorized*
71 *to do so.*

72 **§ 24.2-543. How other groups may submit names of electors; oaths of electors.**

73 A group of qualified voters, not constituting a political party as defined in § 24.2-101, may have the
74 names of electors selected by them, including one elector residing in each congressional district and two
75 from the Commonwealth at large, printed upon the official ballot to be used in the election of electors
76 for President and Vice President by filing a petition pursuant to this section. The petition shall be filed
77 with the State Board by noon of the seventy-fourth day before the presidential election. The petition
78 shall be signed by at least 10,000 qualified voters and include signatures of at least 400 qualified voters
79 from each congressional district. The petition shall be signed by petitioners on and after January 1 of the
80 year of the presidential election only and contain the residence address of each petitioner. The signature
81 of each petitioner shall be witnessed either by a person who is a constitutionally qualified candidate for
82 President of the United States, who may witness his own petition, or by a person who is a resident of
83 the Commonwealth and who is not a minor or a felon whose voting rights have not been restored and
84 whose affidavit to that effect appears on each page of the petition. The petition shall state the names of
85 the electors selected by the petitioners, the party name under which they desire the named electors to be
86 listed on the ballot, and the names of the candidates for President and Vice President for whom the
87 electors are required to vote in the Electoral College. *Two electors shall be designated as the group's*
88 *candidates for the electoral votes to which Virginia is entitled by virtue of its representation in the*
89 *United States Senate, and the names of the remaining electors shall be listed in the order in which the*
90 *petitioning group wishes to have its successful candidates for the electors to which Virginia is entitled*
91 *by virtue of its representation in the United States House of Representatives determined pursuant to*
92 *§ 24.2-202.1. The persons filing the petition shall file with it a copy of a subscribed and notarized oath*
93 *by each elector stating that he will, if elected, cast his ballot for the candidates for President and Vice*
94 *President named in the petition, or as the party may direct in the event of death, withdrawal or*
95 *disqualification of the party nominee. In order to utilize a selected party name on the ballot, the*
96 *petitioners shall have had a state central committee composed of registered voters from each*
97 *congressional district of the Commonwealth, a party plan and bylaws, and a duly designated chairman*
98 *and secretary in existence and holding office for at least six months prior to filing the petition. The State*
99 *Board may require proof that the petitioners meet these requirements before permitting use of a party*
100 *name on the ballot. The party name shall not be identical with or substantially similar to the name of*
101 *any political party qualifying under § 24.2-101 and then in existence.*

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

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

110 **§ 24.2-673. Candidates having highest number of votes to receive certificate of election.**

111 Except in the case of a presidential election pursuant to §§ 24.2-202, 24.2-202.1, and 24.2-203 or a
112 recount pursuant to the provisions of Chapter 8 (§ 24.2-800 et seq.) of this title, in all elections for the
113 choice of any officer, unless it is otherwise expressly provided, the person having the highest number of
114 votes for any office shall be deemed to have been elected to such office and shall receive the certificate
115 of election.