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HOUSE BILL NO. 1399

Offered January 11, 2017

Prefiled August 24, 2016

A *BILL to amend and reenact §§ 24.2-102 and 24.2-106 of the Code of Virginia, relating to appointments to the State Board of Elections and local electoral boards; proportion of political party representation.*

Patrons—Cole and Campbell

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-102 and 24.2-106 of the Code of Virginia are amended and reenacted as follows:

§ 24.2-102. Appointment; terms; Commissioner of Elections; prohibited activities.

The State Board of Elections is continued and shall consist of three members appointed in accordance with this section by the Governor from the qualified voters of the Commonwealth, subject to confirmation by the General Assembly. In the appointment of the Board, representation shall be given to each of the political parties having the highest and next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election. Two Board members shall be of the political party which cast the highest number of votes for Governor at that election. One Board member shall be appointed by the Speaker of the House of Delegates, one Board member shall be appointed by the Senate Committee on Rules, and one Board member shall be appointed by the Governor. If all three members are of the same political party, the Board member appointed by the Governor shall be of the political party having cast the next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election. When the Governor was not elected as the candidate of a political party, representation shall be given to each of the political parties having the highest and next highest number of members of the General Assembly at the time of the appointment and two Board members shall be of the political party having the highest number of members in the General Assembly. Each political party entitled to an appointment may make and file recommendations with the Speaker of the House of Delegates, the Senate Committee on Rules, or the Governor, as appropriate, for the appointment. Its recommendations shall contain the names of at least three qualified voters of the Commonwealth.

Board members shall serve four-year terms beginning February 1, 1995, and each fourth year thereafter. Vacancies shall be filled for the unexpired terms. No member shall be eligible for more than two successive four-year terms. A member appointed for an unexpired term may be appointed for the two succeeding four-year terms.

The Governor shall appoint a Commissioner of Elections, who shall receive the salary fixed by law. The Commissioner of Elections may employ the personnel required to carry out the duties imposed by the State Board of Elections.

No member of the Board shall be eligible to offer for or hold an office to be filled in whole or in part by qualified voters in the Commonwealth. If a member resigns to offer for or hold such office, the vacancy shall be filled as provided in this section.

No member of the Board shall serve as the chairman of a state, local, or district level political party committee or as a paid worker in the campaign of a candidate for nomination or election to an office filled by election in whole or in part by qualified voters in the Commonwealth.

§ 24.2-106. Appointment and terms; vacancies; chairman and secretary; certain prohibitions; training.

There shall be in each county and city an electoral board composed of three members who shall be appointed by a majority of the circuit judges of the judicial circuit for the county or city. If a majority of the judges cannot agree, the senior judge shall make the appointment. Any vacancy occurring on a board shall be filled by the same authority for the unexpired term. In the event of the temporary absence, or disability that precludes the performance of duties, of one or more members that prevents attaining a quorum, the senior judge, for good cause, may appoint, on a meeting to meeting basis, a temporary member to the electoral board. The temporary appointee must be eligible for appointment and to the extent practicable maintain representation of political parties under § 24.2-106. The clerk of the circuit court shall send to the State Board a copy of each order making an appointment to an electoral board.

In the appointment of the electoral board, representation shall be given to each of the two political parties having the highest and next highest number of votes in the Commonwealth for Governor at the

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59 last preceding gubernatorial election. ~~Two electoral board members shall be of the political party that~~
60 ~~cast the highest number of votes for Governor at that election. One electoral board member shall be of~~
61 ~~the political party having the highest number of members in the House of Delegates, one electoral board~~
62 ~~member shall be of the political party having the highest number of members in the Senate of Virginia,~~
63 ~~and one electoral board member shall be of the political party of the Governor. If all three members~~
64 ~~are of the same political party, one electoral board member shall be of the political party having cast~~
65 ~~the next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial~~
66 ~~election. When the Governor was not elected as the candidate of a political party, representation shall be~~
67 ~~given to each of the political parties having the highest and next highest number of members of the~~
68 ~~General Assembly at the time of the appointment and two board members shall be of the political party~~
69 ~~having the highest number of members in the General Assembly. The~~ *Each* ~~political party entitled to the~~
70 ~~an appointment shall make and file recommendations with the judges for the appointment not later than~~
71 ~~January 15 of the year of an appointment to a full term or, in the case of an appointment to fill a~~
72 ~~vacancy, within 30 days of the date of death or notice of resignation of the member being replaced. Its~~
73 ~~recommendations shall contain the names of at least three qualified voters of the county or city for each~~
74 ~~appointment. The judges shall promptly make such appointment (i) after receipt of the political party's~~
75 ~~recommendation or (ii) after January 15 for a full term or after the 30-day period expires for a vacancy~~
76 ~~appointment, whichever of the events described in clause (i) or (ii) first occurs.~~

77 The circuit judges of the judicial circuit for the county or city shall not appoint to the electoral board
78 ~~(i)~~ *(a)* any person who is the spouse of an electoral board member or the general registrar for the county
79 or city; ~~(ii)~~; *(b)* any person, or the spouse of any person, who is the parent, grandparent, sibling, child,
80 or grandchild of an electoral board member or the general registrar of the county or city; or ~~(iii)~~ *(c)* any
81 person who is ineligible to serve under the provisions of this section.

82 Electoral board members shall serve three-year terms and be appointed to staggered terms, one term
83 to expire at midnight on the last day of February each year. No three-year term shall be shortened to
84 comply with the political party representation requirements of this section.

85 The board shall elect one of its members as chairman and another as secretary. The chairman and the
86 secretary shall represent different political parties, unless the representative of the second-ranked political
87 party declines in writing to accept the unfilled office. At any time that the secretary is incapacitated in
88 such a way that makes it impossible for the secretary to carry out the duties of the position, the board
89 may designate one of its other members as acting secretary. Any such designation shall be made in an
90 open meeting and recorded in the minutes of the board.

91 The secretary of the electoral board shall immediately notify the State Board of any change in the
92 membership or officers of the electoral board and shall keep the Board informed of the name, residence
93 and mailing addresses, and home and business telephone numbers of each electoral board member.

94 No member of an electoral board shall be eligible to offer for or hold an office to be filled in whole
95 or in part by qualified voters of his jurisdiction. If a member resigns to offer for or hold such office, the
96 vacancy shall be filled as provided in this section.

97 No member of an electoral board shall be the spouse, grandparent, parent, sibling, child, or
98 grandchild, or the spouse of a grandparent, parent, sibling, child, or grandchild, of a candidate for or
99 holder of an elective office filled in whole or in part by any voters within the jurisdiction of the
100 electoral board.

101 No member of an electoral board shall serve as the chairman of a state, local or district level
102 political party committee or as a paid worker in the campaign of a candidate for nomination or election
103 to an office filled by election in whole or in part by the qualified voters of the jurisdiction of the
104 electoral board.

105 Each member of the electoral board shall attend an annual training program provided by the State
106 Board during the first year of his appointment and the first year of any subsequent reappointment.