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SENATE BILL NO. 902

Offered January 11, 2017

Prefiled December 22, 2016

A BILL to amend and reenact §§ 24.2-101, 24.2-521, 24.2-530, and 24.2-535 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 24.2-418.01, 24.2-423.1, and 24.2-516.1, relating to voter registration by political party; primary elections.

Patron—Obenshain

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-101, 24.2-521, 24.2-530, and 24.2-535 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 24.2-418.01, 24.2-423.1, and 24.2-516.1 as follows:

§ 24.2-101. Definitions.

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

"Ballot scanner machine" means the electronic counting machine in which a voter inserts a marked ballot to be scanned and the results tabulated.

"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.

"Department of Elections" or "Department" means the state agency headed by the Commissioner of Elections.

"Direct recording electronic machine" or "DRE" means the electronic voting machine on which a voter touches areas of a computer screen, or uses other control features, to mark a ballot and his vote is recorded electronically.

"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.

"General registrar" means the person appointed by the electoral board of a county or city pursuant to § 24.2-110 to be responsible for all aspects of voter registration, in addition to other duties prescribed by this title. When performing duties related to the administration of elections, the general registrar is acting

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59 in his capacity as the director of elections for the locality in which he serves.

60 "Machine-readable ballot" means a tangible ballot that is marked by a voter or by a system or device
61 operated by a voter and then fed into and scanned by a counting machine capable of reading ballots and
62 tabulating results.

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

65 "Paper ballot" means a tangible ballot that is marked by a voter and then manually counted.

66 "Party" or "political party" means an organization of citizens of the Commonwealth which, at either
67 of the two preceding statewide general elections, received at least 10 percent of the total vote cast for
68 any statewide office filled in that election. The organization shall have a state central committee and an
69 office of elected state chairman ~~which~~ *that* have been continually in existence for the six months
70 preceding the filing of a nominee for any office. *An organization that has qualified as a political party*
71 *pursuant to this definition shall maintain its status as a political party in each succeeding calendar year*
72 *in which it has been designated as the political party affiliation of 15 percent or more of the voters*
73 *maintained on the Virginia voter registration system with active status on January 1 of the preceding*
74 *calendar year.*

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

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

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

81 "Primary" or "primary election" means an election held for the purpose of selecting a candidate to be
82 the nominee of a political party for election to office.

83 "Printed ballot" means a tangible ballot that is printed on paper and includes both machine-readable
84 ballots and paper ballots.

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

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

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

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

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

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

120 "Special election" means any election that is held pursuant to law to fill a vacancy in office or to

hold a referendum.

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

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

"Voting system" means the electronic voting and counting machines used at elections. This term includes direct recording electronic machines (DRE) and ballot scanner machines.

§ 24.2-418.01. Application for registration; political party affiliation; independent status.

A. On and after January 1, 2018, each application to register shall provide a space for the applicant to state his political party affiliation or independent status. If the applicant does not state a political party affiliation, he shall be designated as independent in the registration records.

B. Each voter registered prior to January 1, 2018, shall be deemed to be an independent in the registration records unless the voter changes his designation to a political party affiliation pursuant to § 24.2-423.1.

§ 24.2-423.1. Notification; change of political party affiliation or independent status.

A. In September 2017, the State Board shall mail, or have mailed, to each voter with active status on the Virginia voter registration system a statement explaining the voter's right to register by political party or as an independent and a return card to notify the general registrar of the jurisdiction where the voter is registered of his choice. The return card shall be signed and returned by the voter. Upon receipt of the return card, the general registrar shall enter the voter's political party affiliation or independent status on his registration record and issue the voter a new voter registration card confirming his choice.

B. On and after January 1, 2018, any registered voter may change his political party affiliation or independent status on his registration record by providing notice in writing, signed by him, to the general registrar of the jurisdiction where he is registered. Such notice may be made in person or by mail or facsimile on a form approved by the State Board, which may be electronic. The notice shall be signed by the voter unless he is physically unable to sign, in which case his own mark acknowledged by a witness shall be sufficient signature. Upon receipt of the notice prescribed in this subsection, the general registrar shall enter the voter's new political party affiliation or independent status on his registration record and issue the voter a new voter registration card confirming the changed affiliation or status.

C. No change in a voter's political party affiliation or independent status shall be entered in the registration records during the period in which the registration records are closed pursuant to § 24.2-416.

D. Return cards and written statements of a change in political party affiliation or independent status, filed pursuant to subsections A and B, shall be subject to election fraud penalties as provided in § 24.2-1016.

§ 24.2-516.1. Party to notify State Board of persons qualified to vote in primaries.

A. By January 31 of each year, the state party chairman of each political party shall file written notice with the State Board applicable to the primaries to be conducted by the party from April 1 of that year through March 31 of the following year. The notice shall state the rules adopted by the party for participation in the party's primaries, including whether the primary shall be (i) open only to qualified voters who are registered as being affiliated with the political party, (ii) open to qualified voters who are registered as being affiliated with the political party and to qualified voters who are registered as independents, (iii) open to all qualified voters, (iv) closed to qualified voters who have participated in another party's primary within a stated period of time, or (v) limited by such other rules for participation that the party determines to adopt and that are permitted by law. The state party chairman's notice shall apply to all primaries conducted by the party, including statewide and other election district primaries.

B. The primaries shall be open to qualified voters who have registered as being affiliated with the political party and as independents if the state party chairman fails to provide to the State Board the written notice required by subsection A.

§ 24.2-521. Petition required to accompany declaration; number of signatures required.

A candidate for nomination by primary for any office shall be required to file with his declaration of candidacy a petition for his name to be printed on the official primary ballot, signed by qualified voters eligible to vote in the primary who are registered as being affiliated with the political party conducting the primary. The petition shall be on a form prescribed by the State Board, signed by the number of qualified voters specified below in subdivisions 1 and 2 after January 1 of the year in which the election is held or before or after said date in the case of a March primary, 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 whose designated political party affiliation on his voter

182 *registration is that of the political party conducting the primary* and who is not a minor or a felon
183 whose voting rights have not been restored and whose affidavit to that effect appears on each page of
184 the petition.

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

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

190 1. For a candidate for the United States Senate, Governor, Lieutenant Governor, or Attorney General,
191 ~~10,000 signatures~~, *a number equal to at least one percent of the number of voters registered in the*
192 *Commonwealth as being affiliated with the political party conducting the primary as of January 1 of the*
193 *year in which the petition must be filed and including the signatures of at least 400* 200 qualified voters
194 from each congressional district in the Commonwealth; and

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

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

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

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

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

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

204 8. For any other candidate, 50 signatures *any other office, a number equal to at least one percent of*
205 *the number of voters registered in the election district in which the primary is being conducted as being*
206 *affiliated with the political party conducting the primary as of January 1 of the year in which the*
207 *petition must be filed.*

208 **§ 24.2-530. Who may vote in primary.**

209 All persons qualified to vote, pursuant to §§ 24.2-400 through 24.2-403, and § 24.2-516.1 may vote
210 at the primary. *The primary shall be conducted, as specified pursuant to § 24.2-516.1, in accordance*
211 *with the notice of the state chairman of the political party holding the primary.* No person shall vote for
212 the candidates of more than one party.

213 **§ 24.2-535. Vote required to nominate.**

214 Any candidate for party nomination to any office who receives a plurality of the votes cast ~~by~~ *at his*
215 *political party primary* shall be the nominee of his party for that office, and his name shall be printed
216 on the official ballots used in the election for which the primary was held.

217 **2. That the provisions of this act shall be applicable to primaries conducted after January 1, 2018.**