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SENATE BILL NO. 65

Offered January 10, 2018

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A BILL to amend and reenact §§ 24.2-543, 24.2-545, and 24.2-614 of the Code of Virginia, relating to presidential candidates; federal tax returns and state income tax returns required for ballot access.

Patrons—Howell; Delegate: Kory

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-543, 24.2-545, and 24.2-614 of the Code of Virginia are amended and reenacted as follows:

§ 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 5,000 qualified voters and include signatures of at least 200 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.

In the event of the death or disqualification of any person listed as an elector for candidates for President and Vice President on a petition filed pursuant to this section, the party or candidate for President, as applicable, may substitute the name of a different elector. Such substitution shall not invalidate any petition of qualified voters circulated with the name of the deceased or disqualified elector provided that notice of the substitution is filed with the State Board by noon of the seventy-fourth day before the presidential election. Notice of the substitution and the name of any substitute elector shall be submitted on a form prepared by the State Board.

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

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59 within three business days of its filing.

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

66 *C. Any candidate selected pursuant to this section shall submit to the State Board by noon of the*
67 *seventy-fourth day before the presidential election his federal tax returns and any income tax returns*
68 *filed in any state from each year of the five-year period immediately preceding the general election. Any*
69 *candidate not complying with this requirement shall not have his name printed on the general election*
70 *ballot.*

71 *Such tax returns shall be made publicly available on the Department of Elections website, with such*
72 *redactions as necessary to protect the individual's privacy in accordance with the standards set by the*
73 *State Board.*

74 **§ 24.2-545. Presidential primary.**

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

87 B. Any person seeking the nomination of the national political party for the office of President of the
88 United States, or any group organized in the Commonwealth on behalf of, and with the consent of such
89 person, may file with the State Board petitions signed by at least 5,000 qualified voters, including at
90 least 200 qualified voters from each congressional district in the Commonwealth, who attest that they
91 intend to participate in the primary of the same political party as the candidate for whom the petitions
92 are filed. Such petitions shall be filed with the State Board by the primary filing deadline. The petitions
93 shall be on a form prescribed by the State Board and shall be sealed in one or more containers to which
94 is attached a written statement giving the name of the presidential candidate and the number of
95 signatures on the petitions contained in the containers. Such person or group shall also attach a list of
96 the names of persons who would be elected delegates and alternate delegates to the political party's
97 national convention if the person wins the primary and the party has determined that its delegates will
98 be selected pursuant to the primary. The slate of delegates and alternates shall comply with the rules of
99 the national and state party.

100 The State Board shall transmit the material so filed to the state chairman of the party of the
101 candidate immediately after the primary filing deadline. The sealed containers containing the petitions
102 for a candidate may be opened only by the state chairman of the party of the candidate. The state
103 chairman of the party shall, by the deadline set by the State Board, furnish to the State Board the names
104 of all candidates who have satisfied the requirements of this section. In furnishing the name of each
105 such candidate, the state chairman shall certify that a review of the filed candidate petitions found the
106 required minimum number of signatures of qualified voters for that office to have been met. Whenever
107 only one candidate for a party's nomination for President of the United States has met the requirements
108 to have his name on the ballot, he will be declared the winner and no presidential primary for that party
109 will be held.

110 *C. Not later than the primary filing deadline, any person seeking the nomination of the national*
111 *political party shall submit to the State Board his federal tax returns and any income tax returns filed in*
112 *any state from each year of the five-year period immediately preceding the general election. Any*
113 *candidate not complying with this requirement shall not have his name printed on the primary ballot.*

114 *Such tax returns shall be made publicly available on the Department of Elections website, with such*
115 *redactions as necessary to protect the individual's privacy in accordance with the standards set by the*
116 *State Board.*

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

119 ~~D.~~ E. The State Board shall certify the results of the presidential primary to the state chairman. If the
120 party has determined that its delegates and alternates will be selected pursuant to the primary, the slate

of delegates and alternates of the candidate receiving the most votes in the primary shall be deemed elected by the state party unless the party has determined another method for allocation of delegates and alternates. If the party has determined to use another method for selecting delegates and alternates, those delegates and alternates shall be bound to vote on the first ballot at the national convention for the candidate receiving the most votes in the primary unless that candidate releases those delegates and alternates from such vote.

E. F. The election, or binding of votes, of delegates to a political party's national convention for the nomination of that party's candidates for President and Vice President of the United States through the presidential primary process shall be considered to be equivalent to a primary for the nomination of a party's candidate.

E. G. The cost of the presidential primary shall be paid by the Commonwealth pursuant to the provisions of the appropriation act.

§ 24.2-614. Preparation and form of presidential election ballots.

As soon as practicable after the seventy-fourth day before the presidential election, the State Board shall certify to the general registrar of each county and city the form of official ballot for the presidential election which shall be uniform throughout the Commonwealth. Each general registrar shall have the official ballot printed at least 45 days preceding the election.

The ballot shall contain the name of each political party and the party group name, if any, specified by the persons naming electors by petition pursuant to § 24.2-543. Below the party name in parentheses, the ballot shall contain the words "Electors for _____, President and _____, Vice President" with the blanks filled in with the names of the candidates for President and Vice President for whom the candidates for electors are expected to vote in the Electoral College. A printed square shall precede the name of each political party or party designation.

Groups of petitioners qualifying for a party name under § 24.2-543 shall be treated as a class; the order of the groups shall be determined by lot by the State Board; and the groups shall immediately precede the independent class on the ballot. The names of the candidates within the independent class shall be listed alphabetically.

The official ballot shall not contain the name of any candidate who did not submit his federal tax returns and income tax returns filed in any state as required by § 24.2-543 or 24.2-545.