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SENATE BILL NO. 1311

Offered January 9, 2019

Prefiled January 7, 2019

A BILL to amend and reenact §§ 24.2-102 and 24.2-103 of the Code of Virginia, relating to State Board of Elections; membership; Commissioner of Elections.

Patron—Edwards

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-102 and 24.2-103 of the Code of Virginia are amended and reenacted as follows:

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

A. The State Board of Elections is continued and shall consist of ~~three~~ five members appointed 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~~ Three Board members shall be of the political party which cast the highest number of votes for Governor at that 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~~ three 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 Governor for the appointment. Its recommendations shall contain the names of at least three qualified voters of the Commonwealth.

After the initial staggering of terms, Board members shall serve four-year terms beginning February 1, 1995, and each fourth year thereafter that shall begin on February 1 of the year of the appointment. 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 four-year term a member serves as the Commissioner of Elections shall not constitute a term in determining the member's term limit.

The Governor shall ~~appoint~~ designate one member of the Board as the Commissioner of Elections; ~~who shall receive the salary fixed by law. The Commissioner shall head the Department of Elections and act as the principal administrative officer, and shall receive the salary fixed by law. In both capacities, as a member of the Board and as the head of the Department of Elections, the Commissioner shall serve at the pleasure of the Governor for a term of four years. The Commissioner of Elections may employ the personnel required to carry out the duties required by law and imposed by the State Board of Elections. The personnel employed shall be subject to the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.).~~

The Commissioner shall also serve as the chair of the Board. The Governor shall designate one Board member to be the vice-chair. The chair and the vice-chair shall be members representing opposite political parties.

B. 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 or volunteer 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.

No member of the Board shall be the spouse, grandparent, parent, sibling, child, or grandchild of a person seeking election to an office or holding an elective office that is filled in whole or in part by qualified voters in the Commonwealth. The member of the Board shall submit his resignation to the Governor and the Board on the date that any such person files as a candidate for election to an office that is filled in whole or in part by qualified voters in the Commonwealth.

§ 24.2-103. Powers and duties in general.

A. The State Board, through the Department of Elections, shall supervise and coordinate the work of the county and city electoral boards and of the registrars to obtain uniformity in their practices and proceedings and legality and purity in all elections. It shall make rules and regulations and issue instructions and provide information consistent with the election laws to the electoral boards and registrars to promote the proper administration of election laws. Electoral boards and registrars shall

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59 provide information requested by the State Board and shall follow (i) the elections laws and (ii) the
60 rules and regulations of the State Board insofar as they do not conflict with Virginia or federal law. The
61 State Board shall post on the Internet within three business days any rules or regulations made by the
62 State Board. Upon request and at a reasonable charge not to exceed the actual cost incurred, the State
63 Board shall provide to any requesting political party or candidate, within three days of the receipt of the
64 request, copies of any instructions or information provided by the State Board to the local electoral
65 boards and registrars.

66 B. The State Board, through the Department of Elections, shall ensure that the members of the
67 electoral boards and general registrars are properly trained to carry out their duties by offering training
68 annually, or more often, as it deems appropriate, and without charging any fees to the electoral boards
69 and general registrars for the training. The State Board shall set the training standards for the officers of
70 election and shall develop standardized training programs for the officers of election to be conducted by
71 the local electoral boards and the general registrars. Training of the officers of election shall be
72 conducted and certified as provided by § 24.2-115.2. The State Board shall provide standardized training
73 materials for such training and shall also offer on the Department of Elections website a training course
74 for officers of election. The content of the online training course shall be consistent with the
75 standardized training programs developed pursuant to this section. The State Board shall review the
76 standardized training materials and the content of the online training course every two years in the year
77 immediately following a general election for federal office.

78 C. The State Board may institute proceedings pursuant to § 24.2-234 for the removal of any member
79 of an electoral board who fails to discharge the duties of his office in accordance with law. The State
80 Board may petition the local electoral board to remove from office any general registrar who fails to
81 discharge the duties of his office according to law. The State Board may institute proceedings pursuant
82 to § 24.2-234 for the removal of a general registrar if the local electoral board refuses to remove the
83 general registrar and the State Board finds that the failure to remove the general registrar has a material
84 adverse effect upon the conduct of either the registrar's office or any election. Any action taken by the
85 State Board pursuant to this subsection shall require a recorded majority vote of the Board.

86 D. The State Board may petition a circuit court or the Supreme Court, whichever is appropriate, for a
87 writ of mandamus or prohibition, or other available legal relief, for the purpose of ensuring that
88 elections are conducted as provided by law.

89 E. The Department of Elections shall supervise its own staff to assure that no member of its staff
90 shall serve (i) as the chairman of a political party or other officer of a state-, local-, or district-level
91 political party committee or (ii) as a paid or volunteer worker in the campaign of a candidate for
92 nomination or election to an office filled by election in whole or in part by the qualified voters of the
93 Commonwealth.

94 F. The State Board shall adopt a seal for its use and bylaws for its own proceedings.

95 G. A telephone call between ~~two~~ *three* members of the Board preparing for a meeting shall not
96 constitute a meeting under the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et
97 seq.), provided that no discussion or deliberation takes place that would otherwise constitute a meeting.

98 *H. The State Board shall submit an annual report to the Governor and the General Assembly on the*
99 *activities of the State Board and Department of Elections in the previous year. Such report shall be*
100 *governed by the provisions of § 2.2-608.*

101 **2. That the provisions of this act shall become effective on January 1, 2020.**

102 **3. That the terms of persons serving as members of the State Board of Elections prior to the**
103 **effective date of this act shall expire on the effective date of this act.**

104 **4. That the term of the person serving as the Commissioner of Elections prior to the effective date**
105 **of this act shall expire on the effective date of this act.**

106 **5. That the initial appointments of members of the State Board of Elections shall be staggered as**
107 **follows: one member, designated as the Commissioner of Elections and representing the political**
108 **party of the Governor, shall be appointed for a term to expire on January 31, 2023; one member,**
109 **representing the political party of the Governor, shall be appointed for a term to expire on**
110 **January 31, 2023; one member, representing the political party that had the next highest number**
111 **of votes in the Commonwealth for Governor at the last preceding gubernatorial election, shall be**
112 **appointed for a term to expire on January 31, 2023; one member, representing the political party**
113 **of the Governor, shall be appointed for a term to expire on January 31, 2021; and one member,**
114 **representing the political party that had the next highest number of votes in the Commonwealth**
115 **for Governor at the last preceding gubernatorial election, shall be appointed for a term to expire**
116 **on January 31, 2021. After the initial appointments of members of the State Board of Elections**
117 **pursuant to this enactment, appointments shall be for terms of four years beginning on February**
118 **1 of the year of the appointment.**