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SENATE BILL NO. 1455

Offered January 9, 2019

Prefiled January 8, 2019

A *BILL to amend the Code of Virginia by adding in Chapter 1 of Title 24.2 an article numbered 1.1, consisting of sections numbered 24.2-101.2 through 24.2-101.5, and to repeal § 24.2-102 of the Code of Virginia, relating to Department of Elections and the State Board of Elections; reorganization as independent agency; membership of Board; appointment of Commissioner of Elections.*

Patrons—Vogel, Edwards and Mason

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 1 of Title 24.2 an article numbered 1.1, consisting of sections numbered 24.2-101.2 through 24.2-101.5, as follows:

*Article 1.1.**Agency Overview.***§ 24.2-101.2. Department of Elections.**

The Department of Elections is hereby continued and reestablished as an independent agency of the Commonwealth, exclusive of the legislative, executive, or judicial branches of government. The Department shall include a Commissioner of Elections and the State Board of Elections for the purpose of administering elections in the Commonwealth.

§ 24.2-101.3. State Board of Elections.

A. The State Board of Elections is hereby continued as a supervisory board.

B. The State Board of Elections shall consist of nine members who shall be qualified voters of the Commonwealth and shall be appointed as follows: (i) three members appointed by the Governor, one of whom shall be a member of the political party that cast the highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election, one of whom shall be a member of the political party that cast the next highest number of votes in the Commonwealth for Governor at that election, and one of whom shall be a former judge of a court of record; (ii) three members appointed by the Speaker of the House of Delegates, one of whom shall be a member of the political party that cast the highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election, one of whom shall be a member of the political party that cast the next highest number of votes in the Commonwealth for Governor at that election, and one of whom shall be a former judge of a court of record; and (iii) three members appointed by the Senate Committee on Rules, one of whom shall be a member of the political party which that cast the highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election, one of whom shall be a member of the political party that cast the next highest number of votes in the Commonwealth for Governor at that election, and one of whom shall be a former judge of a court of record. All Board members shall be subject to confirmation by the General Assembly.

C. Each political party entitled to an appointment shall provide to each appointing authority a list of at least five nominees who are (i) qualified voters of the Commonwealth and (ii) not disqualified from serving pursuant to subsection F. The Office of Executive Secretary of the Supreme Court of Virginia shall provide to each appointing authority a list of at least five nominees who are (a) former judges of courts of record, (b) qualified voters of the Commonwealth, and (c) not disqualified from serving pursuant to subsection F. Separate lists shall be provided to each appointing authority.

Each nominee shall attest, in writing, that he is qualified to serve as a member of the State Board, and such attestation shall be provided to the respective appointing authority.

D. After the initial staggering of terms, Board members shall serve terms of three years, which shall begin on February 1 of the year of the appointment. In the event of a vacancy other than by expiration of a term, the appointing authority responsible for filling such vacancy shall do so within 45 days of the vacancy occurring. Vacancies shall be filled for the unexpired terms.

E. Each year the Board shall elect from its membership a chairman and a vice-Chairman. The Commissioner of Elections, appointed pursuant to § 24.2-101.4, shall act as the Clerk of the State Board of Elections and shall be responsible for taking and preserving the minutes of the Board.

F. No Board member shall be eligible to offer for or hold an office to be filled in whole or in part by qualified voters in the Commonwealth. Upon a Board member's receiving the nomination of any political party or filing any paperwork required pursuant to Chapter 5 (§ 24.2-500 et seq.), his position as a Board member shall be vacated.

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59 No Board member shall serve as (i) an officer of a state, local, or district level political party
60 committee, (ii) a paid or volunteer worker for any campaign of a candidate for nomination or election
61 to an office filled by election in whole or in part by qualified voters in the Commonwealth, or (iii) a
62 paid or volunteer worker for any political party or referendum committee.

63 Any person (a) who is the spouse, grandparent, parent, sibling, child, or grandchild of a person
64 seeking election to an office or holding an elective office that is filled in whole or in part by qualified
65 voters in the Commonwealth or (b) who is the spouse, grandparent, parent, sibling, child, or grandchild
66 of the Commissioner of Elections or an employee of the Department of Elections shall be ineligible to
67 serve as a member of the Board. A Board member shall submit his resignation on the date that any
68 such person files as a candidate for election to an office that is filled in whole or in part by qualified
69 voters in the Commonwealth or is appointed Commissioner of Elections or becomes an employee of the
70 Department of Elections.

71 **§ 24.2-101.4. Commissioner of Elections.**

72 A. The State Board of Elections shall appoint a Commissioner of Elections (the Commissioner) to
73 head the Department of Elections and to act as the principal administrative officer. Such appointment
74 shall require an affirmative vote of six of the nine Board members. The Commissioner may be removed
75 by the Board upon an affirmative vote of six of the nine Board members. The Commissioner shall
76 receive the salary fixed by law. He may employ the personnel required to carry out the duties required
77 by law and imposed by the Board.

78 B. The Commissioner shall be a qualified voter of the Commonwealth and shall live within 30 miles
79 of Capitol District, as that term is defined in § 2.2-620, within 60 days of being appointed
80 Commissioner.

81 C. The Commissioner shall not be eligible to offer for or hold an office to be filled in whole or in
82 part by qualified voters in the Commonwealth. Upon the Commissioner's receiving the nomination of
83 any political party or filing any paperwork required pursuant to Chapter 5 (§ 24.2-500 et seq.), his
84 position as Commissioner shall be vacated.

85 The Commissioner shall not serve as (i) an officer of a state, local, or district level political party
86 committee, (ii) a paid or volunteer worker for any campaign of a candidate for nomination or election
87 to an office filled by election in whole or in part by qualified voters in the Commonwealth, or (iii) a
88 paid or volunteer worker for any political party or referendum committee

89 The Board shall not appoint as Commissioner (i) any person who is the spouse of a member of the
90 Board or of a person seeking election to an office or holding an elective office that is filled in whole or
91 in part by qualified voters in the Commonwealth; (ii) any person, or the spouse of any person, who is
92 the grandparent, parent, sibling, child, or grandchild of a member of the Board; or (iii) any person, or
93 the spouse of any person, who is the grandparent, parent, sibling, child, or grandchild of a person who
94 is seeking election to an office or holds an elective office that is filled in whole or in part by qualified
95 voters in the Commonwealth. The Commissioner shall submit his resignation to the Board on the date
96 that any such person files as a candidate for election to an office that is filled in whole or in part by
97 qualified voters in the Commonwealth.

98 **§ 24.2-101.5. Employees of Department of Elections.**

99 All personnel employed by the Department of Elections shall be subject to the provisions of the
100 Virginia Personnel Act (§ 2.2-2900 et seq.).

101 No Department employee shall be eligible to offer for or hold an office to be filled in whole or in
102 part by qualified voters in the Commonwealth.

103 No Department employee shall serve as (i) officer of a state, local, or district level political party
104 committee, (ii) a paid or volunteer worker for any campaign of a candidate for nomination or election
105 to an office filled by election in whole or in part by qualified voters in the Commonwealth, or (iii) a
106 paid or volunteer worker for any political party or referendum committee.

107 No Department employee shall be the spouse, grandparent, parent, sibling, child, or grandchild of
108 (a) a person seeking election to an office or holding an elective office that is filled in whole or in part
109 by qualified voters in the Commonwealth or (b) a member of the Board or the Commissioner of
110 Elections.

111 **2. That § 24.2-102 of the Code of Virginia is repealed.**

112 **3. That the provisions of this act shall become effective February 1, 2023.**

113 **4. That the initial appointments of members of the State Board shall be staggered as follows: one**
114 **member, who is a former judge of a court of record, shall be appointed by the Governor for a**
115 **term of one year; one member, representing the political party that had the next highest number**
116 **of votes in the Commonwealth for Governor at the last preceding gubernatorial election, shall be**
117 **appointed by the Governor for a term of two years; one member, representing the political party**
118 **of the Governor, shall be appointed by the Governor for a term of three years; one member,**
119 **representing the political party of the Governor, shall be appointed by the Speaker of the House of**
120 **Delegates for a term of one year; one member, who is a former judge of a court of record, shall**

121 be appointed by the Speaker of the House of Delegates for a term of two years; one member,
122 representing the political party that had the next highest number of votes in the Commonwealth
123 for Governor at the last preceding gubernatorial election, shall be appointed by the Speaker of the
124 House of Delegates for a term of three years; one member, representing the political party that
125 had the next highest number of votes in the Commonwealth for Governor at the last preceding
126 gubernatorial election, shall be appointed by the Senate Committee on Rules for a term of one
127 year; one member, representing the political party of the Governor, shall be appointed by the
128 Senate Committee on Rules for a term of two years; and one member, who is a former judge of a
129 court of record, shall be appointed by the Senate Committee on Rules for a term of three years.
130 5. That the term of the person serving as the Commissioner of Elections prior to the effective date
131 of this act shall expire on the effective date of this act.

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