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SENATE BILL NO. 21

Offered January 12, 2022

Prefiled December 22, 2021

A BILL to provide for the submission to the voters of a proposed amendment to Section 1 of Article II of the Constitution of Virginia, relating to qualifications of voters and the right to vote; persons not entitled to vote.

Patrons—Locke and Morrissey; Delegate: Kory

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. § 1. It shall be the duty of the officers conducting the election directed by law to be held on the Tuesday after the first Monday in November 2022, at the places appointed for holding the same, to open a poll and take the sense of the qualified voters upon the ratification or rejection of the proposed amendment to the Constitution of Virginia, contained herein and in the joint resolution proposing such amendment, to wit:

Amend Section 1 of Article II of the Constitution of Virginia as follows:

ARTICLE II

FRANCHISE AND OFFICERS

Section 1. Qualifications of voters.

(a) In elections by the people, the qualifications of voters shall be as follows: Each voter shall be a citizen of the United States, shall be eighteen years of age, shall fulfill the residence requirements set forth in ~~this section~~ *subsection (b)*, and shall be registered to vote pursuant to this article. *Every person who meets these qualifications shall have the fundamental right to vote in the Commonwealth, and such right shall not be abridged by law, except that:*

(1) No person who has been convicted of a felony shall be ~~qualified~~ *entitled* to vote ~~unless his civil rights have been restored by the Governor or other appropriate authority.~~ *during any period of incarceration for such felony conviction, but every such person, upon release from incarceration for that felony conviction and without further action required of him, shall be invested with all political rights, including the right to vote; and*

~~As prescribed by law, no~~ *(2) No* person *who has been* adjudicated ~~to be mentally incompetent~~ *by a court of competent jurisdiction to lack the capacity to understand the act of voting* shall be ~~qualified~~ *entitled* to vote *during such period of incapacity* until his ~~competency~~ *capacity* has been reestablished *as prescribed by law*.

(b) The residence requirements shall be that each voter shall be a resident of the Commonwealth and of the precinct where he votes. Residence, for all purposes of qualification to vote, requires both domicile and a place of abode. The General Assembly may provide for persons who are employed overseas, and their spouses and dependents residing with them, and who are qualified to vote except for relinquishing their place of abode in the Commonwealth while overseas, to vote in the Commonwealth subject to conditions and time limits defined by law. The General Assembly may provide for persons who are qualified to vote except for having moved their residence from one precinct to another within the Commonwealth to continue to vote in a former precinct subject to conditions and time limits defined by law. The General Assembly may also provide, in elections for President and Vice President of the United States, alternatives to registration for new residents of the Commonwealth.

(c) Any person who will be qualified with respect to age to vote at the next general election shall be permitted to register in advance and also to vote in any intervening primary or special election.

§ 2. The ballot shall contain the following question:

"Question: Should the Constitution of Virginia be amended (i) to provide for the fundamental right to vote in the Commonwealth, (ii) to revise the qualifications of voters so that a person convicted of a felony is not entitled to vote during his period of incarceration but is automatically invested with the right to vote upon release from incarceration, and (iii) to update the existing prohibition on voting by persons found to be mentally incompetent to instead apply to persons who have been found to lack the capacity to understand the act of voting?"

The ballots shall be prepared, distributed and voted, and the results of the election shall be ascertained and certified, in the manner prescribed by § 24.2-684 of the Code of Virginia. The State Board of Elections shall comply with § 30-19.9 of the Code and shall cause to be sent to the electoral boards of each county and city sufficient copies of the full text of the amendment and question contained herein for the officers of election to post in each polling place on election day.

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The electoral board of each county and city shall make out, certify and forward an abstract of the votes cast for and against such proposed amendment in the manner now prescribed by law in relation to votes cast in general elections.

The State Board of Elections shall open and canvass such abstracts and examine and report the whole number of votes cast at the election for and against such amendment in the manner now prescribed by law in relation to votes cast in general elections. The State Board of Elections shall record a certified copy of such report in its office and without delay make out and transmit to the Governor an official copy of such report, certified by it. The Governor shall without delay make proclamation of the result, stating therein the aggregate vote for and against the amendment.

If a majority of those voting vote in favor of the amendment, it shall become effective on January 1, 2023.

The expenses incurred in conducting this election shall be defrayed as in the case of election of members of the General Assembly.