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HOUSE BILL NO. 1951

Offered January 8, 1997

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 24.2-418.1, 24.2-423.1, and 24.2-516.1, relating to election law definitions, voter registration by political party; primary elections; penalties.

Patrons—Katzen, Bryant, Callahan, Cantor, Cox, Drake, Forbes, Griffith, Ingram, Kilgore, Marshall, McDonnell, Nixon, O'Brien, Orrock, Purkey, Reid, Rollison, Ruff, Sherwood, Tata, Wardrup, Way, Weatherholtz and Wilkins; Senators: Martin and Schrock

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 24.2-418.1, 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:

"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.) and 9 (§ 24.2-900 et seq.) of this title, "candidate" shall include any write-in candidate.

"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.

"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.

"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.

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

"Party" or "political party" means an organization of citizens of the Commonwealth which, at either of the two preceding statewide general elections, received at least ten percent of the total vote cast for any statewide office filled in that election or which has been designated as their party by fifteen percent or more of the voters maintained on the Virginia voter registration system with active status on the preceding January 1. The organization shall have a state central committee and an office of elected state chairman which have been continually in existence for the six months preceding the filing of a nominee for any office.

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

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

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

"Qualified voter" means a person who is entitled to vote pursuant to the Constitution of Virginia and who is (i) eighteen years of age, (ii) a resident of the Commonwealth and of the precinct in which he

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60 offers to vote, and (iii) registered to vote. No person who has been convicted of a felony shall be a
61 qualified voter unless his civil rights have been restored by the Governor or other appropriate authority.
62 No person adjudicated to be mentally incompetent shall be a qualified voter unless his competency has
63 been reestablished as provided by law.

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

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

69 "Registered voter" means any person who is maintained on the Virginia voter registration system. All
70 registered voters shall be maintained on the Virginia voter registration system with active status unless
71 assigned to inactive status by a general registrar in accordance with Chapter 4 (§ 24.2-400 et seq.). For
72 purposes of applying the precinct size requirements of § 24.2-307, calculating election machine
73 requirements pursuant to Article 3 (§ 24.2-625 et seq.) of Chapter 6 and determining the number of
74 signatures required for candidate and voter petitions, "registered voter" shall include only persons
75 maintained on the Virginia voter registration system with active status.

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

79 "Residence" or "resident," for all purposes of qualification to register and vote, means and requires
80 both domicile and a place of abode. In determining domicile, consideration may be given to a person's
81 expressed intent, conduct, and all attendant circumstances including, but not limited to, financial
82 independence, business pursuits, employment, income sources, residence for income tax purposes,
83 marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real
84 property owned by the person, motor vehicle and other personal property registration, and other factors
85 reasonably necessary to determine the qualification of a person to register or vote.

86 "Special election" means any election which is held pursuant to law to fill a vacancy in office or to
87 hold a referendum.

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

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

92 *§ 24.2-418.1. Application for registration; political party affiliation; independent status.*

93 *A. Each application to register shall provide a space for the applicant to state his political party*
94 *affiliation or independent status. If the applicant does not state his political party affiliation or indicate*
95 *his independent status, he shall be designated as independent in the registration records.*

96 *B. Each voter registered, prior to January 1, 1998, shall be deemed to be an independent in the*
97 *registration records unless the voter changes his designation to a political party affiliation pursuant to*
98 *§ 24.2-423.1.*

99 *§ 24.2-423.1. Notification; change of political party affiliation or independent status.*

100 *A. In January 1998, the State Board shall mail, or have mailed, to each voter with active status on*
101 *the Virginia voter registration system a statement explaining the voter's right to register by political*
102 *party or as an independent and a return card to notify the general registrar of the jurisdiction where*
103 *the voter is registered of his choice. The return card shall be signed by the voter. On receipt of the*
104 *return card, the general registrar shall enter the voter's political party affiliation or independent status*
105 *on his registration record and issue the voter a new voter registration card confirming his choice.*

106 *B. Any registered voter may change his political party affiliation or independent status on his*
107 *registration record by giving a notice in writing, signed by him, to the general registrar of the*
108 *jurisdiction where he is registered. On receipt of the notice prescribed in this subsection, the general*
109 *registrar shall enter the voter's new political party affiliation or independent status on his registration*
110 *record and issue the voter a new voter registration card confirming the changed affiliation or status.*

111 *C. No change in a voter's political party affiliation or independent status shall be entered in the*
112 *registration records at any time the registration records are closed pursuant to § 24.2-416.*

113 *D. Return cards and written statements of a change in political party affiliation or independent*
114 *status, filed pursuant to subsections A and B, shall be subject to election fraud penalties as provided in*
115 *§ 24.2-1016.*

116 *§ 24.2-516.1. Party to notify State Board of persons qualified to vote in primary.*

117 *A. By January 31 of each year, the state party chairman of each political party shall file written*
118 *notice with the State Board whether the primaries to be conducted by the party, during the following*
119 *twelve months beginning on April 1, shall be open (i) only to qualified voters who have registered as*
120 *being affiliated with the political party or (ii) to qualified voters who have registered as being affiliated*
121 *with the political party and as independents. The state party chairman's notice shall apply to all*

primaries conducted by the party including statewide and 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 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 registered as being affiliated with the political party conducting the primary, is himself a qualified voter eligible to vote for the office for which he is circulating the petition and, in the case of a statewide office, is a resident of the same or a contiguous congressional district as the voter whose signature is witnessed, and whose affidavit to that effect appears on each page of the petition.

Each voter signing the petition shall provide on the petition his social security number, if any; however, noncompliance with this requirement shall not be cause to invalidate the voter's signature on the petition.

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

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

2. For a candidate for the United States House of Representatives any other office, a number equal to ~~one-half~~ of one percent of the number of voters registered in the congressional election district in which the primary is being conducted as being affiliated with the political party conducting the primary as of January 1 of the year in which the petition must be filed;

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

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

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

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

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

8. For any other candidate, 50 signatures.

§ 24.2-530. Who may vote in primary.

All persons qualified to vote, pursuant to §§ 24.2-400 through 24.2-403 and 24.2-516.1, may vote at the primary. The primary shall be open, as specified pursuant to § 24.2-516.1, (i) only to qualified voters who have registered as being affiliated with the political party or (ii) to qualified voters who have registered as being affiliated with the political party and as independents. No person shall vote for the candidates of more than one party.

§ 24.2-535. Vote required to nominate.

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

2. That the provisions of this act shall become effective on January 1, 1998; however, the provisions of this act shall not be applicable to primaries conducted prior to April 1, 1998, and the amendments to § 24.2-521 shall become effective on January 1, 1999.