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HOUSE BILL NO. 1432

Offered January 17, 2006

A BILL to amend and reenact §§ 24.2-101 and 24.2-114 of the Code of Virginia, relating to elections; definitions, including the definition of residence; duties of registrars.

Patron—Barlow

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:**1. That §§ 24.2-101 and 24.2-114 of the Code of Virginia are amended and reenacted 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.), 9 (§ 24.2-900 et seq.), and 9.2 (§ 24.2-941 et seq.), "candidate" shall include any write-in candidate. However, no write-in candidate who has received less than 15 percent of the votes cast for the office shall be eligible to initiate an election contest pursuant to Article 2 (§ 24.2-803 et seq.) of Chapter 8. For the purposes of Chapters 9 (§ 24.2-900 et seq.) and 9.2 (§ 24.2-941 et seq.), "candidate" shall include any person who raises or spends funds in order to seek or campaign for an office of the Commonwealth, excluding federal offices, or one of its governmental units in a party nomination process or general, primary, or special election; and such person shall be considered a candidate until a final report is filed pursuant to Article 4 (§ 24.2-914 et seq.) of Chapter 9.

"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 10 percent of the total vote cast for any statewide office filled in that election. 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) 18 years of age, (ii) a resident of the Commonwealth and of the precinct in which he offers to vote, and (iii) registered to vote. No person who has been convicted of a felony shall be a qualified

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59 voter unless his civil rights have been restored by the Governor or other appropriate authority. No
60 person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as
61 provided by law.

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

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

67 "Registered voter" means any person who is maintained on the Virginia voter registration system. All
68 registered voters shall be maintained on the Virginia voter registration system with active status unless
69 assigned to inactive status by a general registrar in accordance with Chapter 4 (§ 24.2-400 et seq.). For
70 purposes of applying the precinct size requirements of § 24.2-307, calculating election machine
71 requirements pursuant to Article 3 (§ 24.2-625 et seq.) of Chapter 6, mailing notices of local election
72 district, precinct or polling place changes as required by subdivision 13 of § 24.2-114 and § 24.2-306,
73 and determining the number of signatures required for candidate and voter petitions, "registered voter"
74 shall include only persons maintained on the Virginia voter registration system with active status.

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

78 "Residence" or "resident," for all purposes of qualification to register and vote, means and requires
79 both domicile and a place of abode. *An applicant may have more than one place of abode but only one*
80 *domicile. In such case, he may claim as his domicile (i) his place of abode where he is physically*
81 *present when applying to register and where he intends to live for an indefinite period or (ii) his place*
82 *of abode from which he is temporarily absent but to which he intends to return and where he intends to*
83 *live for an indefinite period.* In determining domicile, consideration may be given to a person's
84 expressed intent, conduct, and all attendant circumstances including, but not limited to, financial
85 independence, business pursuits, employment, income sources, residence for income tax purposes,
86 marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real
87 property owned by the person, motor vehicle and other personal property registration, and other factors
88 reasonably necessary to determine the qualification of a person to register or vote.

89 "Special election" means any election that is held pursuant to law to fill a vacancy in office or to
90 hold a referendum.

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

92 "Virginia voter registration system" or "voter registration system" means the automated central
93 record-keeping system for all voters registered within the Commonwealth that is maintained as provided
94 in Article 2 (§ 24.2-404 et seq.) of Chapter 4.

95 § 24.2-114. Duties and powers of general registrar.

96 In addition to the other duties required by this title, the general registrar, and the assistant registrars
97 acting under his supervision, shall:

98 1. Maintain the office of the general registrar and establish and maintain additional public places for
99 voter registration in accordance with the provisions of § 24.2-412.

100 2. Participate in programs to educate the general public concerning registration and encourage
101 registration by the general public. No registrar shall actively solicit, in a selective manner, any
102 application for registration or for a ballot or offer anything of value for any such application.

103 3. Perform his duties within the county or city he was appointed to serve, except that a registrar may
104 (i) go into a county or city in the Commonwealth contiguous to his county or city to register voters of
105 his county or city when conducting registration jointly with the registrar of the contiguous county or city
106 or (ii) notwithstanding any other provision of law, participate in multijurisdictional staffing for voter
107 registration offices, approved by the State Board, that are located at facilities of the Department of
108 Motor Vehicles.

109 4. Provide the appropriate forms for applications to register and to obtain the information necessary
110 to complete the applications pursuant to the provisions of the Constitution of Virginia and general law.

111 5. Indicate on the registration records for each accepted mail voter registration application form
112 returned by mail pursuant to Article 3.1 (§ 24.2-416.1 et seq.) of Chapter 4 that the registrant has
113 registered by mail. The general registrar shall fulfill this duty in accordance with the instructions of the
114 State Board so that those persons who registered by mail are identified on the registration records, lists
115 of registered voters furnished pursuant to § 24.2-405, lists of persons who voted furnished pursuant to
116 § 24.2-406, and pollbooks used for the conduct of elections.

117 6. Accept a registration application or request for transfer or change of address submitted by or for a
118 resident of any other county or city in the Commonwealth. Registrars shall process registration
119 applications and requests for transfer or change of address from residents of other counties and cities in
120 accordance with written instructions from the State Board and shall forward the completed application or

request to the registrar of the applicant's residence. Notwithstanding the provisions of § 24.2-416, the registrar of the applicant's residence shall recognize as timely any application or request for transfer or change of address submitted to any person authorized to receive voter registration applications pursuant to Chapter 4 (§ 24.2-400 et seq.), prior to or on the final day of registration. The registrar of the applicant's residence shall determine the qualification of the applicant and promptly notify the applicant at the address shown on the application or request of the acceptance or denial of his registration or transfer. However, notification shall not be required when the registrar does not have an address for the applicant. *If a registrar has reason to question whether a person actually resides in the precinct where he seeks to vote, the registrar should make reasonable inquiries to help the applicant make an accurate determination of his residence. Each applicant should be evaluated individually, weighing all of the relevant circumstances in accordance with the definition of residence as set out in § 24.2-101.*

7. Preserve order at and in the vicinity of the place of registration. For this purpose, the registrar shall be vested with the powers of a conservator of the peace while engaged in the duties imposed by law. He may exclude from the place of registration persons whose presence disturbs the registration process. He may appoint special officers, not exceeding three in number, for a place of registration and may summon persons in the vicinity to assist whenever, in his judgment, it is necessary to preserve order. The general registrar and any assistant registrar shall be authorized to administer oaths for purposes of this title.

8. Maintain the official registration records for his county or city in the system approved by, and in accordance with the instructions of, the State Board; preserve the written applications of all persons who are registered; and preserve for a period of four years the written applications of all persons who are denied registration or whose registration is cancelled.

9. If a person is denied registration, promptly notify such person in writing of the denial and the reason for denial in accordance with § 24.2-422.

10. Verify the accuracy of the pollbooks provided for each election by the State Board, make the pollbooks available to the precincts, and according to the instructions of the State Board return the pollbooks, or transfer a copy of the data from any electronic pollbooks, to the State Board after each election for voting credit purposes.

11. After the return of the pollbooks by the State Board, retain the pollbooks in his principal office for two years from the date of the election.

12. Maintain accurate and current registration records and comply with the requirements of this title for the transfer, inactivation, and cancellation of voter registrations.

13. Whenever election districts, precincts, or polling places are altered, provide for entry into the voter registration system of the proper district and precinct designations for each registered voter whose districts or precinct have changed and notify each affected voter of changes affecting his districts or polling place by mail.

14. Whenever any part of his county or city becomes part of another jurisdiction by annexation, merger, or other means, transfer to the appropriate general registrar the registration records of the affected registered voters. The general registrar for their new county or city shall notify them by mail of the transfer and their new election districts and polling places.

15. When he registers any person who was previously registered in another state, notify the appropriate authority in that state of the person's registration in Virginia.

16. Whenever any person is believed to be registered or voting in more than one state or territory of the United States at the same time, inquire about, or provide information from the voter's registration and voting records to any appropriate voter registration or other authority of another state or territory who inquires about, that person's registration and voting history.

17. At the request of the county or city chairman of any political party nominating a candidate for the General Assembly, constitutional office, or local office by a method other than a primary, review any petition required by the party in its nomination process to determine whether those signing the petition are registered voters with active status.

18. Carry out such other duties as prescribed by the electoral board.

19. Attend, or designate one member of his staff to attend, an annual training program provided by the State Board.