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SENATE BILL NO. 1038

Offered January 14, 2009

Prefiled January 13, 2009

A BILL to amend and reenact § 24.2-101 of the Code of Virginia, relating to qualified voter; definition of "residence."

Patron—Hanger

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:**1. That § 24.2-101 of the Code of Virginia is 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.), 9.3 (§ 24.2-945 et seq.), and 9.5 (§ 24.2-955 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 9.3 (§ 24.2-945 et seq.) and 9.5 (§ 24.2-955 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 3 (§ 24.2-947 et seq.) of Chapter 9.3.

"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.

"Person with a disability" means a person with a disability as defined by the Virginians with Disabilities Act (§ 51.5-1 et seq.).

"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.

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59 "Qualified voter" means a person who is entitled to vote pursuant to the Constitution of Virginia and
60 who is (i) 18 years of age on or before the day of the election or qualified pursuant to § 24.2-403 or
61 subsection D of § 24.2-544, (ii) a resident of the Commonwealth and of the precinct in which he offers
62 to vote, and (iii) registered to vote. No person who has been convicted of a felony shall be a qualified
63 voter unless his civil rights have been restored by the Governor or other appropriate authority. No
64 person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as
65 provided by law.

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

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

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

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

82 "Residence" or "resident," for all purposes of qualification to register and vote, means and requires
83 both domicile and a place of abode. 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. *The general registrar*
89 *may request this information verbally or in writing when the qualification of an applicant is in question*
90 *or when an applicant provides an address that is not typically a permanent residence address, or is not*
91 *listed as a permanent residence by the United States Census Bureau, the United States Postal Service,*
92 *or the Virginia Electronic Registration Information System. These addresses may include, but are not*
93 *limited to, commercial property, business addresses, barracks, ships, boats, marinas, campgrounds,*
94 *dormitories, motels, hotels, or any other transient address that would not be considered as a typical*
95 *permanent residence address. Except for citizens covered by the Uniformed and Overseas Citizens*
96 *Absentee Voting Act (42 U.S.C. § 1973ff et seq.), for voting purposes, an applicant shall be presumed to*
97 *be a resident of the state where he files as a resident for state income tax purposes or the state where*
98 *he has claimed a homestead exemption for property tax purposes. The applicant bears the burden to*
99 *rebut this presumption.*

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

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

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