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SENATE BILL NO. 848**AMENDMENT IN THE NATURE OF A SUBSTITUTE**(Proposed by the Senate Committee on Privileges and Elections
on February 6, 2009)

(Patron Prior to Substitute—Senator Edwards)

*A BILL to amend and reenact §§ 24.2-101, 24.2-404, and 24.2-417.1 of the Code of Virginia, relating to elections; definitions; duties of State Board of Elections, registration residence requirements; presumptions.***Be it enacted by the General Assembly of Virginia:****1. That §§ 24.2-101, 24.2-404, and 24.2-417.1 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.), 9.3 (§ 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.

"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. To establish domicile,~~
89 ~~a person must live in a particular locality with the intention to remain. A place of abode is the physical~~
90 ~~place where a person dwells.~~

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

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

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

97 § 24.2-404. Duties of State Board.

98 A. The State Board shall provide for the continuing operation and maintenance of a central
99 record-keeping system, the Virginia Voter Registration System, for all voters registered in the
100 Commonwealth.

101 In order to operate and maintain the system, the Board shall:

102 1. Maintain a complete, separate, and accurate record of all registered voters in the Commonwealth.

103 2. Require the general registrars to enter the names of all registered voters into the system and to
104 change or correct registration records as necessary.

105 3. Provide to each general registrar, voter registration cards for newly registered voters and for notice
106 to registered voters on the system of changes and corrections in their registration records and polling
107 places.

108 4. Require the general registrars to delete from the record of registered voters the name of any voter
109 who (i) is deceased, (ii) is no longer qualified to vote in the county or city where he is registered due to
110 removal of his residence, (iii) has been convicted of a felony, (iv) has been adjudicated incapacitated,
111 (v) is known not to be a United States citizen by reason of reports from the Department of Motor
112 Vehicles pursuant to § 24.2-410.1, or (vi) is otherwise no longer qualified to vote as may be provided
113 by law.

114 5. Retain on the system for four years a separate record for registered voters whose names have been
115 deleted, with the reason for deletion.

116 6. Retain on the system permanently a separate record for information received regarding deaths,
117 felony convictions, and adjudications of incapacity pursuant to §§ 24.2-408 through 24.2-410.

118 7. Provide to each general registrar, at least 10 days prior to a general or primary election and three
119 days prior to a special election, an alphabetical list of all registered voters in each precinct or portion of
120 a precinct in which the election is being held in the county, city, or town. These precinct lists shall be
121 used as the official lists of qualified voters and shall constitute the pollbooks. The State Board shall

provide instructions for the division of the pollbooks and precinct lists into sections to accommodate the efficient processing of voter lines at the polls. Prior to any general, primary, or special election, the State Board shall provide any general registrar, upon his request, with a separate electronic list of all registered voters in the registrar's county or city. If electronic pollbooks are used in the locality or electronic voter registration inquiry devices are used in precincts in the locality, the State Board shall provide a regional or statewide list of registered voters to the general registrar of the locality. The State Board shall determine whether regional or statewide data is provided. Neither the pollbook nor the regional or statewide list of registered voters shall include the day and month of birth of the voter, but shall include the voter's year of birth.

8. Acquire by purchase, lease, or contract equipment necessary to execute the duties of the Board.

9. Use any source of information that may assist in carrying out the purposes of this section. All agencies of the Commonwealth shall cooperate with the State Board in procuring and exchanging identification information for the purpose of maintaining the voter registration system.

10. Reprint and impose a reasonable charge for the sale of any part of Title 24.2, lists of precincts and polling places, statements of election results by precinct, and any other items required of the State Board by law. Receipts from such sales shall be credited to the Board for reimbursement of printing expenses.

B. The State Board shall be authorized to provide for the production, distribution, and receipt of information and lists through the Virginia Voter Registration System by any appropriate means including, but not limited to, paper and electronic means.

C. The State Board shall institute procedures to ensure that each requirement of this section is fulfilled. As part of its procedures, the State Board shall provide that the general registrar shall mail notice of any cancellation pursuant to clause (v) of subdivision A 4 to the person whose registration is cancelled.

D. The State Board shall promulgate rules and regulations to ensure the uniform application of the law for determining a person's residence.

§ 24.2-417.1. Registration residence requirements; presumptions in certain cases.

A. In determining the residence as defined in § 24.2-101 and the domicile and place of abode of a participant in the American Conservation and Youth Service Corps provided for by federal law (42 U.S.C. § 12655 et seq.), there shall be a presumption that a participant in the Corps who was domiciled and had a place of abode in Virginia at the time of entering the Corps continues to be domiciled and retains the same place of abode unless the participant expressly states otherwise.

B. In determining the residence as defined in § 24.2-101 and domicile and place of abode of a military or merchant marine spouse or dependent, there shall be a presumption that a military or merchant marine spouse or dependent who has established physical presence and a place of abode in the Commonwealth shall also have established domicile in the Commonwealth unless the spouse or dependent expressly states otherwise. Once residence is changed, the military or merchant marine spouse or dependent may not revert to any previous residence without re-establishing new physical presence and intent to remain or return.

C. In determining the residence as defined in § 24.2-101 and the domicile and place of abode of any person who applies to register to vote under this title, there shall be a presumption that the domicile and place of abode are at the address of residence given by the person.