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**HOUSE BILL NO. 1478**

Offered January 12, 2011

Prefiled December 9, 2010

A *BILL to amend and reenact §§ 2.2-106, 24.2-101, 24.2-102, 24.2-404.1, 24.2-411.2, 24.2-502, 24.2-644, 24.2-713, 24.2-946.4, 24.2-953.3, 24.2-953.4, and 37.2-1014 of the Code of Virginia, relating to the State Board of Elections; providing for a Director of Elections.*

Patrons—Janis, Bell, Richard P. and Landes

Referred to Committee on Privileges and Elections

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 2.2-106, 24.2-101, 24.2-102, 24.2-404.1, 24.2-411.2, 24.2-502, 24.2-644, 24.2-713, 24.2-946.4, 24.2-953.3, 24.2-953.4, and 37.2-1014 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-106. Appointment of agency heads; severance.

A. Notwithstanding any provision of law to the contrary, the Governor shall appoint the administrative head of each agency of the executive branch of state government except the:

1. Executive Director of the Virginia Port Authority;
2. Director of the State Council of Higher Education for Virginia;
3. Executive Director of the Department of Game and Inland Fisheries;
4. Executive Director of the Jamestown-Yorktown Foundation;
5. Executive Director of the Motor Vehicle Dealer Board;
6. Librarian of Virginia;
7. Administrator of the Commonwealth's Attorneys' Services Council;
8. Executive Director of the Virginia Housing Development Authority; and
9. Executive Director of the Board of Accountancy; and
10. Director of Elections.

However, the manner of selection of those heads of agencies chosen as set forth in the Constitution of Virginia shall continue without change. Each administrative head and Secretary appointed by the Governor pursuant to this section shall (i) be subject to confirmation by the General Assembly, (ii) have the professional qualifications prescribed by law, and (iii) serve at the pleasure of the Governor.

B. As part of the confirmation process for each administrative head and Secretary, the Secretary of the Commonwealth shall provide copies of the resumes and statements of economic interests filed pursuant to § 2.2-3117 to the chairs of the House of Delegates and Senate Committees on Privileges and Elections. For appointments made before January 1, copies shall be provided to the chairs within 30 days of the appointment or by January 7 whichever time is earlier; and for appointments made after January 1 through the regular session of that year, copies shall be provided to the chairs within seven days of the appointment. Each appointee shall be available for interviews by the Committees on Privileges and Elections or other applicable standing committee. For the purposes of this section and § 2.2-107, there shall be a joint subcommittee of the House of Delegates and Senate Committees on Privileges and Elections consisting of five members of the House Committee and three members of the Senate Committee appointed by the respective chairs of the committees to review the resumes and statements of economic interests of gubernatorial appointees. The members of the House of Delegates shall be appointed in accordance with the principles of proportional representation contained in the Rules of the House of Delegates. No appointment confirmed by the General Assembly shall be subject to challenge by reason of a failure to comply with the provisions of this subsection pertaining to the confirmation process.

C. For the purpose of this section, "agency" includes all administrative units established by law or by executive order that are not (i) arms of the legislative or judicial branches of government; (ii) institutions of higher education as classified under §§ 23-253.7, 22.1-346, 23-14, and 23-252; (iii) regional planning districts, regional transportation authorities or districts, or regional sanitation districts; and (iv) assigned by law to other departments or agencies, not including assignments to secretaries under Article 7 (§ 2.2-215 et seq.) of Chapter 2 of this title.

D. Severance benefits provided to any departing agency head, whether or not appointed by the Governor, shall be publicly announced by the appointing authority prior to such departure.

§ 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

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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.

*"Director" means the Director of Elections.*

"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.

"Entrance of polling place" or "entrance to polling place" means an opening in the wall used for ingress to a structure.

"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 structure that contains 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 on or before the day of the election or qualified pursuant to § 24.2-403 or subsection D of § 24.2-544, (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 voter unless his civil rights have been restored by the Governor or other appropriate authority. No person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as provided by law.

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

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

"Registered voter" means any person who is maintained on the Virginia voter registration system. All registered voters shall be maintained on the Virginia voter registration system with active status unless assigned to inactive status by a general registrar in accordance with Chapter 4 (§ 24.2-400 et seq.). For

purposes of applying the precinct size requirements of § 24.2-307, calculating election machine requirements pursuant to Article 3 (§ 24.2-625 et seq.) of Chapter 6, mailing notices of local election district, precinct or polling place changes as required by subdivision 13 of § 24.2-114 and § 24.2-306, and determining the number of signatures required for candidate and voter petitions, "registered voter" shall include only persons maintained on the Virginia voter registration system with active status.

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

"Residence" or "resident," for all purposes of qualification to register and vote, means and requires both domicile and a place of abode. To establish domicile, a person must live in a particular locality with the intention to remain. A place of abode is the physical place where a person dwells.

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

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

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

§ 24.2-102. Appointment; terms; Director of Elections; prohibited activities.

The State Board of Elections is continued and shall consist of ~~three~~ five members appointed by the Governor from the qualified voters of the Commonwealth, subject to confirmation by the General Assembly. In the appointment of the Board, representation shall be given to each of the political parties having the highest and next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election. ~~Two~~ Three Board members shall be of the political party which that cast the highest number of votes for Governor at that election, and two Board members shall be of the political party that cast the next highest number of votes for Governor at that election. When the Governor was not elected as the candidate of a political party, representation shall be given to each of the political parties having the highest and next highest number of members of the General Assembly at the time of the appointment and ~~two~~ three Board members shall be of the political party having the highest number of members in the General Assembly, and two Board members shall be of the political party having the next highest number of members in the General Assembly. Each political party entitled to an appointment may make and file recommendations with the Governor for the appointment. Its recommendations shall contain the names of at least ~~three~~ five qualified voters of the Commonwealth.

Three Board members shall serve four-year terms beginning February 1, ~~1995~~ 2012, and each fourth year thereafter. ~~Two~~ Board members shall serve four-year terms beginning August 1, 2012, and each fourth year thereafter. Vacancies shall be filled for the unexpired terms. No member, ~~except the Secretary,~~ shall be eligible for more than two successive four-year terms. A member appointed for an unexpired term may be appointed for the two succeeding four-year terms.

The Governor shall designate one member of the Board as the Secretary, who shall receive the salary fixed by law. The Secretary may employ the personnel required to carry out the duties imposed by this title. The provisions of § 2.2-106 shall not apply to this section.

No member of the Board shall be eligible to offer for or hold an office to be filled in whole or in part by qualified voters in the Commonwealth. If a member resigns to offer for or hold such office, the vacancy shall be filled as provided in this section.

No member of the Board shall serve as the chairman of a state, local, or district level political party committee or as a paid worker in the campaign of a candidate for nomination or election to an office filled by election in whole or in part by qualified voters in the Commonwealth.

The Board, with the concurrence of at least four members of the Board, shall appoint a Director of Elections who shall be the chief executive officer of the Board and act as its principal administrative officer. The appointment shall be subject to confirmation by the General Assembly. The appointment, if made during a session of the General Assembly, shall be subject to confirmation during the session, and otherwise shall be subject to confirmation at the next session of the General Assembly. No person whose confirmation is refused by the General Assembly shall continue as Director or be reappointed Director. The Director may be removed only with the concurrence of four members of the Board.

The Director shall be a qualified voter of the Commonwealth and shall, by his education, training, or experience, be knowledgeable of election law and administration. He shall receive the salary fixed by law and shall employ the personnel required to carry out the duties of the Board imposed by this title. The personnel so employed shall be subject to the provisions of the Virginia Personnel Act (§ 2.2-2900 et seq.).

The Director shall not hold any other office, by election or appointment, or be a candidate for any office filled by voters in the Commonwealth, while serving as Director. The election or appointment of the Director to, or his candidacy for, any other office shall vacate his position as Director. The Board

shall not appoint as Director (i) any person who is the spouse of a Board member or of a person who is a candidate for or holds an elective office filled by voters in the Commonwealth or (ii) any person, or the spouse of any person, who is the grandparent, parent, sibling, child, or grandchild of a Board member or of a person who is a candidate for or holds an elective office filled by voters in the Commonwealth. The Director shall tender his resignation to the Board on the date that any person, or the spouse of any person, who is the grandparent, parent, sibling, child, or grandchild of the Director files as a candidate for an elective office filled by voters in the Commonwealth.

The Director shall not serve as the chairman of a political party or other officer of a state, local, or district level political party committee and shall not serve as a paid or volunteer worker in the campaign of a candidate for nomination or election to an office filled by election in whole or in part by the qualified voters of the Commonwealth. The restrictions of this paragraph shall also apply to paid employees under the supervision of the Director.

§ 24.2-404.1. Director of Elections to serve as state coordinator for the administration of the National Voter Registration Act.

The ~~Secretary of the State Board~~ Director of Elections shall be the chief state election officer responsible for the coordination of state responsibilities under the National Voter Registration Act (42 U.S.C. § 1973gg et seq.).

§ 24.2-411.2. State-designated voter registration agencies.

A. The following agencies are designated as voter registration agencies in compliance with the National Voter Registration Act (42 U.S.C. § 1973gg et seq.) and shall provide voter registration opportunities at their state, regional, or local offices, depending upon the point of service:

1. Agencies whose primary function is to provide public assistance, including agencies that provide benefits under the Temporary Assistance for Needy Families program; Special Supplemental Food Program for Women, Infants, and Children; Medicaid program; or Food Stamps program;

2. Agencies whose primary function is to provide state-funded programs primarily engaged in providing services to persons with disabilities;

3. Armed Forces recruitment offices; and

4. The regional offices of the Department of Game and Inland Fisheries and the offices of the Virginia Employment Commission in the Northern Virginia Planning District 8.

B. The ~~Secretary of the State Board~~ Director of Elections, with the assistance of the Office of the Attorney General, shall compile and maintain a list of the specific agencies covered by subdivisions A 1 and A 2 that, in the legal opinion of the Attorney General, must be designated to meet the requirements of the National Voter Registration Act. The ~~Secretary of the State Board~~ Director of Elections shall notify each agency of its designation and thereafter notify any agency added to or deleted from the list.

C. At each voter registration agency, the following services shall be made available on the premises of the agency:

1. Distribution of mail voter registration forms provided by the State Board of Elections;

2. Assistance to applicants in completing voter registration application forms, unless the applicant refuses assistance; and

3. Receipt of completed voter registration application forms.

D. A voter registration agency, which provides service or assistance in conducting voter registration, shall make the following services available on the premises of the agency:

1. Distribution with each application for its service or assistance, or upon admission to a facility or program, and with each recertification, readmission, renewal, or change of address form, of a voter registration application prescribed by the State Board of Elections that complies with the requirements of the National Voter Registration Act (42 U.S.C. § 1973gg et seq.).

2. Provision, as part of the voter registration process, of a form that includes:

a. The question: "If you are not registered to vote where you live now, would you like to apply to register to vote here today?"

b. If the agency provides public assistance, the statement: "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency."

c. Boxes for the applicant to check to indicate whether the applicant would like to register, declines to register to vote, or is already registered (failure to check any box being deemed to constitute a declination to register for purposes of subdivision 2 a), together with the statement (in close proximity to the boxes and in prominent type): "IF YOU DO NOT CHECK ANY BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME."

d. The statement: "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek help or accept help is yours. You may fill out the application form in private."

e. The statement: "If you believe that someone has interfered with your right to register or to decline to register to vote, or your right to privacy in deciding whether to register or in applying to register to vote, you may file a complaint with the State Board of Elections." The statement shall include the

address and telephone number of the State Board.

f. The following statement accompanying the form which features prominently in boldface capital letters: "WARNING: INTENTIONALLY MAKING A MATERIALLY FALSE STATEMENT ON THIS FORM CONSTITUTES THE CRIME OF ELECTION FRAUD, WHICH IS PUNISHABLE UNDER VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO 10 YEARS IN PRISON, OR UP TO 12 MONTHS IN JAIL AND/OR FINED UP TO \$2,500."

3. Provision to each applicant who does not decline to register to vote of the same degree of assistance with regard to the completion of the voter registration application as is provided by the office with regard to the completion of its own applications, unless the applicant refuses assistance.

E. If a voter registration agency designated under subsection A of this section provides services to a person with a disability at the person's home, the agency shall provide the voter registration services as provided for in this section.

F. A person who provides services at a designated voter registration agency shall not:

1. Seek to influence an applicant's political preference;
2. Display any material indicating the person's political preference or party allegiance;
3. Make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits; or

4. Disclose, except as authorized by law for official use, the social security number, or any part thereof, of any applicant for voter registration.

Any person who is aggrieved by a violation of this subsection may provide written notice of the violation to the State Board of Elections. The Board shall be authorized to cooperate with the agency to resolve the alleged violation. Nothing contained in this subsection shall prohibit an aggrieved person from filing a complaint in accordance with § 24.2-1019 against a person who commits any election law offense enumerated in §§ 24.2-1000 through 24.2-1016.

G. A completed voter registration application shall be transmitted as directed by the State Board of Elections not later than five business days after the date of receipt.

H. Each state-designated voter registration agency shall maintain such statistical records on the number of applications to register to vote as requested by the State Board of Elections.

§ 24.2-502. Statement of economic interests as requirement of candidacy.

It shall be a requirement of candidacy that a written statement of economic interests shall be filed by (i) a candidate for Governor, Lieutenant Governor, or Attorney General with the Secretary of the Commonwealth, (ii) a candidate for Senate or House of Delegates with the clerk of the appropriate house, (iii) a candidate for a constitutional office with the general registrar for the county or city, and (iv) a candidate for member of the governing body or elected school board of any county, city, or town with a population in excess of 3,500 persons with the general registrar for the county or city. The statement of economic interests shall be that specified in § 30-111 for candidates for the General Assembly and in § 2.2-3117 for all other candidates. The foregoing requirement shall not apply to a candidate for reelection to the same office who has met the requirement of annually filing a statement pursuant to § 2.2-3114, § 2.2-3115, or § 30-110.

The Secretary of the Commonwealth, the clerks of the Senate and House of Delegates, the general registrar, and the clerk of the local governing body shall transmit to the State Board, immediately after the filing deadline, a list of the candidates who have filed initial or annual statements of economic interests. The ~~Secretary of the State Board~~ *Director of Elections* shall notify the appropriate local electoral boards of the filings.

§ 24.2-644. Voting by paper ballot; voting for presidential electors; write-in votes.

A. The qualified voter shall take the official paper ballot and enter the voting booth. After entering the voting booth, the qualified voter shall mark immediately preceding the name of each candidate for whom he wishes to vote a check (✓) or a cross (X or +) or a line (-) in the square provided for such purpose, leaving unmarked the square preceding the name of each candidate for whom he does not wish to vote. Any ballot marked so that the intent of the voter is clear shall be counted.

B. The qualified voter at a presidential election shall mark the square preceding the names and party designation for his choice of candidates for President and Vice President. His ballot so marked shall be counted as if he had marked squares preceding the names of the individual electors affiliated with his choice for President and Vice President. The qualified voter at a presidential election may cast a write-in vote for President and Vice President as provided in subsections C and D of this section.

C. At all elections except primary elections it shall be lawful for any voter to vote for any person other than the listed candidates for the office by writing or hand printing the person's name on the official ballot. No check or other mark shall be required to cast a valid write-in vote. Write-in votes for President and Vice President shall be counted only for candidates who have filed a joint declaration of intent to be write-in candidates for the offices with the ~~Secretary of the State Board~~ *Director of*

305 *Elections* not less than ~~ten~~ 10 days before the date of the presidential election. The declaration of intent  
306 shall be on a form prescribed by the State Board and shall include a list of presidential electors pledged  
307 to those candidates which equals the whole number of senators and representatives to which the  
308 Commonwealth at that time is entitled in the Congress of the United States. A write-in vote cast for  
309 candidates for President and Vice President, or for a candidate for President only, shall be counted for  
310 the individual electors listed on the declaration of intent as pledged to those candidates.

311 D. No write-in vote shall be counted unless the name is entered on the ballot in conformance with  
312 this section. No write-in vote shall be counted when it is apparent to the officers of election that a voter  
313 has voted for the same person for the same office more than one time. No write-in vote shall be counted  
314 for an office for any person whose name appears on the ballot as a candidate for that office. If two or  
315 more persons are to be elected to the same office, a voter may vote for one or more persons whose  
316 names do appear on the ballot and one or more persons whose names do not appear on the ballot,  
317 provided that the total number of votes cast by him for that office does not exceed the number of  
318 persons to be elected to that office.

319 § 24.2-713. Emergency authority of the Director of Elections.

320 The provisions of this section shall apply in the case of an emergency that will not allow sufficient  
321 time for the distribution and handling of absentee ballot applications and absentee ballots, in accordance  
322 with the procedures of this title, for qualified voters who are unable to vote in person because of the  
323 emergency. The ~~Secretary of the State Board~~ Director of Elections shall have the authority to designate  
324 alternative methods and procedures to handle such applications and ballots. Nothing in this section shall  
325 authorize the counting of any absentee ballot returned after the polls have closed. For purposes of this  
326 section, "an emergency" shall mean (i) any emergency declared by the Governor pursuant to Chapter 3.2  
327 (§ 44-146.13 et seq.) of Title 44, (ii) any emergency declared by the President of the United States or  
328 the governor of another state pursuant to law and confirmed by the Governor by the executive order as  
329 an emergency for the purposes of this section, or (iii) any public emergency that interferes with the  
330 electoral process or the opportunity for qualified voters to exercise their right to vote as determined by  
331 the ~~Secretary of the State Board~~ Director of Elections.

332 § 24.2-946.4. Right to grant extensions in special circumstances.

333 A. The State Board shall provide instructions to filers for delivery of campaign finance reports within  
334 the time periods prescribed by law.

335 B. Notwithstanding any other provision of law, any candidate or treasurer required to file a report  
336 pursuant to this chapter shall be entitled to a 72-hour extension of the filing deadline if his spouse,  
337 parent, grandparent, child, grandchild, or sibling died within the 72 hours before the deadline. The State  
338 Board or the local electoral board shall be authorized to grant an extension of the filing deadline for a  
339 period not to exceed five days for good cause shown by the filer and found by the Board or board  
340 sufficient to justify the granting of the extension.

341 C. The ~~Secretary of the State Board~~ Director of Elections shall have additional authority to extend a  
342 deadline established in this chapter for filing reports in emergency situations that interfere with the  
343 timely filing of reports. The extension shall be limited in scope to the areas and times affected by the  
344 emergency. The provisions of this subsection shall be applicable only in the case of an emergency  
345 declared by the Governor pursuant to Chapter 3.2 (§ 44-146.13 et seq.) of Title 44 or declared by the  
346 President of the United States and confirmed by the Governor by executive order as an emergency for  
347 the purposes of this subsection.

348 D. The ~~Secretary of the State Board~~ Director of Elections shall have additional authority to extend a  
349 deadline established in this chapter for filing reports for a reasonable period for a candidate who serves  
350 as his own campaign treasurer and who is a member of a uniformed service of the United States called  
351 to active duty during a reporting period.

352 E. The State Board shall have authority to extend any deadline applicable to reports required to be  
353 filed by computer or electronic means in the event of a failure of the computer or electronic filing  
354 system that prevents timely filing. The extension shall not exceed a period of up to five days after  
355 restoration of the filing system to operating order.

356 F. The State Board shall have authority also to grant extensions as provided in §§ 24.2-503 and  
357 24.2-948.3.

358 § 24.2-953.3. Incomplete reports.

359 A. In the case of a violation of this chapter that relates to the filing of an incomplete report, the  
360 violator shall be subject to a civil penalty not to exceed \$500 unless a greater penalty is imposed  
361 pursuant to this section. However the civil penalty shall in no case exceed \$500 unless the total of the  
362 filer's reportable contributions or the total of the filer's reportable expenditures is \$10,000 or more.

363 B. Prior to assessing a penalty pursuant to this section for the filing of an incomplete report, the  
364 ~~Secretary of the State Board~~ Director of Elections or the general registrar or secretary of the local  
365 electoral board, as appropriate, shall notify, by certified mail, the candidate and treasurer, or person or  
366 political committee required to file a report with that board, that a filed report has not been completed,

citing the omissions from the report. No penalty shall be assessed if the information required to complete the report is filed within 10 days of the date of mailing the written notice.

C. If the information required to complete the report is not filed within the 10-day period, the ~~Secretary of the State Board~~ *Director of Elections* or the general registrar or secretary of the local electoral board, as appropriate, shall then assess against the candidate and treasurer, who shall be jointly and severally liable, or person or political committee required to file a report, a civil penalty not to exceed \$500. The ~~Secretary of the State Board~~ *Director of Elections* or the general registrar or secretary of the local electoral board, as appropriate, shall consider the following factors in determining the civil penalty assessed: the number of omissions, the amount of money involved, and the proportion of contributions or expenditures containing omissions.

D. The ~~Secretary of the State Board~~ *Director of Elections* or the general registrar or secretary of the local electoral board may grant an additional period for compliance, not to exceed two weeks, to permit the completion of a filed report for good cause shown and in response to a request filed within the 10-day period. However, no additional period shall be granted thereafter for compliance.

E. The civil penalty assessed for filing an incomplete report shall be increased by \$500 every 60 days following the date for compliance established pursuant to this section and until compliance is complete. If the failure to comply continues for more than 120 days following the date for compliances established pursuant to this section, there shall be a rebuttable presumption that the violation was willful, and the matter shall be forwarded to the appropriate attorney for the Commonwealth.

F. The civil penalty assessed for filing any subsequent incomplete report (i) that is filed more than 20 days after notice has been given of a violation or (ii) that is filed during the 60 days prior to the elections for which the person is a candidate shall be \$1,000.

G. The State Board shall notify the public through its official Internet website of a failure to file a complete report by a candidate for statewide office or the General Assembly and the identity of the violator following the date for compliance established pursuant to this section.

§ 24.2-953.4. Additional civil penalties for late and incomplete filings for statewide campaigns.

A. In addition to the penalties provided in §§ 24.2-953.1, 24.2-953.2 and 24.2-953.3, any candidate for statewide office, and his campaign treasurer, who fails to file any report required in Article 3 in a timely manner or files an incomplete report may be assessed a civil penalty by the ~~Secretary of the State Board~~ *Director of Elections* pursuant to this section.

B. Prior to assessing a penalty pursuant to this section, the ~~Secretary~~ *Director* shall notify, within 14 days of the deadline for the required report, the candidate and treasurer in writing that a report has not been filed or that a filed report has not been completed, citing the omissions from the report. No penalty shall be assessed pursuant to this section if the report or information required to complete the report is filed within seven days of the date of mailing the written notice.

C. If the report or information required to complete the report is not filed within the seven-day period, the ~~Secretary~~ *Director* shall assess against the candidate and treasurer, who shall be jointly and severally liable, a civil penalty of \$500 for each day that the violation continues on and after the eighth day following the date of mailing the written notice. The ~~Secretary~~ *Director* may grant an additional period for compliance, not to exceed two weeks, for good cause shown and in response to a request filed within the seven-day period. However, no additional period shall be granted for compliance with the requirement under subdivision 8 of § 24.2-947.6 to file a report not later than the eighth day before the election. The State Board shall notify the public through its official Internet website of the violation and identity of the violator.

D. If requested by the ~~Secretary~~ *Director*, the attorney for the Commonwealth of the City of Richmond shall assist the ~~Secretary~~ *Director* in collecting the civil penalty.

E. Any candidate or treasurer aggrieved by the assessment pursuant to this section shall have a right to the direct review of the assessment by a court of competent jurisdiction as provided in the Administrative Process Act (§ 2.2-4000 et seq.). The provisions of the Act shall not apply, however, to the assessment of civil penalties by the ~~Secretary~~ *Director* pursuant to this section.

F. Civil penalties collected pursuant to this section shall be payable to the State Treasurer for deposit to the general fund.

§ 37.2-1014. Clerk to index findings of incapacity or restoration; notice to Commissioner, commissioner of accounts, Director of Elections, and CCRE.

A. A copy of the findings of the court, if the person is found to be incapacitated or restored to capacity, shall be filed by the judge with the clerk of the circuit court. The clerk shall properly index the findings in the index to deed books by reference to the order book and page whereon the order is spread and shall immediately notify the Commissioner in accordance with § 37.2-1029, the commissioner of accounts in order to ensure compliance by a conservator with the duties imposed pursuant to §§ 37.2-1022 through 37.2-1024 and § 37.2-1027, and the ~~Secretary of the State Board~~ *Director of Elections* with the information required by § 24.2-410. If a guardian is appointed, the clerk

428 shall forward a copy of the court order to the local department of social services of the jurisdiction  
429 where the person then resides. If a guardianship is terminated or otherwise modified, the clerk shall  
430 forward a copy of the court order to the local department of social services to which the original order  
431 of appointment was forwarded and, if different, to the local department of social services in the  
432 jurisdiction where the person then resides.

433 B. The clerk shall certify and forward forthwith to the Central Criminal Records Exchange, on a  
434 form provided by the Exchange, a copy of any order adjudicating a person incapacitated under this  
435 article and any order of restoration of capacity under § 37.2-1012. The copy of the form and the order  
436 shall be kept confidential in a separate file and used only to determine a person's eligibility to possess,  
437 purchase, or transfer a firearm.

438 **2. That this act shall take effect July 1, 2011, but shall not be construed to affect existing**  
439 **appointments, made by the Governor, for which the terms have not expired. However, any**  
440 **appointments for a full term that are made after July 1, 2011, shall be made in accordance with**  
441 **the provisions of this act.**

442 **3. That the State Board of Elections may designate an Acting Director of Elections to serve**  
443 **beginning February 1, 2012, and until the appointment by the Board of a Director. The Acting**  
444 **Director shall serve at the pleasure of the Board. Any appropriation for the compensation of the**  
445 **Secretary of the Board shall be deemed an appropriation for the compensation of the Director of**  
446 **Elections or Acting Director.**