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SENATE BILL NO. 887

Offered January 12, 2011

Prefiled January 10, 2011

A BILL to amend and reenact §§ 22.1-57.2, 24.2-228.1, 24.2-507, and 24.2-685 of the Code of Virginia, relating to deadlines for certain special elections.

Patron—Martin

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 22.1-57.2, 24.2-228.1, 24.2-507, and 24.2-685 of the Code of Virginia are amended and reenacted as follows:

§ 22.1-57.2. Referendum on direct election of school board members by the voters.

The registered voters of any such county, city, or town may, by petition filed with the circuit court thereof, ask that a referendum be held on the question of whether the members of the school board of the county, city, or town shall be elected directly by the voters. The petition shall be signed by registered voters equal in number to at least ~~ten~~ 10 percent of the number registered in such locality on the January 1 preceding its filing. Upon the filing of a petition, the circuit court shall order and require the election officials at the next general election to open the polls and take the sense of the voters therein on that question. The petition shall be filed with the court not less than ~~ninety~~ 111 days prior to the general election. The clerk of the court shall cause notice of the referendum to be published once a week for the three consecutive weeks prior to the referendum in a newspaper having general circulation in the county, city, or town, and a copy of the notice shall be posted during the same time on the door of the courthouse of the county or city, or of the county within which the town is located. The question on the ballot shall be:

"Shall the method of selecting the school board be changed from appointment by the governing body (or the school board selection commission, whichever is applicable) to direct election by the voters?"

☐ YES

☐ NO

The election shall be held and the results certified as provided in § 24.2-684.

§ 24.2-228.1. Election to fill vacancy in constitutional office.

A. Notwithstanding any provision of a charter to the contrary, a vacancy in any elected constitutional office, whether occurring when for any reason an officer-elect does not take office or occurring after an officer begins his term, shall be filled by special election. The governing body of the county or city in which the vacancy occurs shall, within 15 days of the occurrence of the vacancy, petition the circuit court to issue a writ of election to fill the vacancy as set forth in Article 5 (§ 24.2-681 et seq.) of Chapter 6 of this title. Either upon receipt of the petition or on its own motion, the court shall promptly issue the writ ordering the election for a date determined pursuant to § 24.2-682. Upon receipt of written notification by an officer or officer-elect of his resignation as of a stated date, the governing body may immediately petition the circuit court to issue a writ of election, and the court may immediately issue the writ to call the election. The officer's or officer-elect's resignation shall not be revocable after the date stated by him for his resignation or after the thirtieth day before the date set for the special election. Notwithstanding the foregoing provisions, a vacancy in any elected constitutional office in any county or city with a population of 15,000 or less, or shared by two or more units of government with a combined population of 15,000 or less, shall be held at a special election ordered by the court to be held at the next ensuing general election to be held in November. If the vacancy occurs within ~~120~~ 90 days prior to that election, however, the writ shall order the election to be held at the second ensuing such general election.

B. The highest ranking deputy officer, or, in the case of the office of attorney for the Commonwealth, the highest ranking full-time assistant attorney for the Commonwealth, if there is such a deputy or assistant in the office, shall be vested with the powers and shall perform all of the duties of the office, and shall be entitled to all the privileges and protections afforded by law to elected or appointed constitutional officers, until the qualified voters fill the vacancy by election and the person so elected has qualified and taken the oath of office. In the event that (i) there is no deputy officer or full-time assistant attorney for the Commonwealth in the office or (ii) the highest-ranking deputy officer or assistant attorney for the Commonwealth declines to serve, the court shall make an interim appointment to fill the vacancy pursuant to § 24.2-227 until the qualified voters fill the vacancy by election and the person so elected has qualified and taken the oath of office.

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59 C. Notwithstanding any provision of law to the contrary, no election to fill a vacancy shall be
60 ordered or held if the general election at which it is to be called is scheduled within 60 days of the end
61 of the term of the office to be filled.

62 D. The absence from the county or city of a constitutional officer by reason of his service in the
63 Armed Forces of the United States shall not be deemed to create a vacancy in the office without a
64 written notification by the officer of his resignation from the office. Notwithstanding any other provision
65 of law, including § 19.2-156, the power to relieve a constitutional officer of the duties or powers of his
66 office or position during the period of such absence shall remain the sole prerogative of the
67 constitutional officer unless expressly waived by him in writing.

68 § 24.2-507. Deadlines for filing declarations and petitions of candidacy.

69 For any office, declarations of candidacy and the petitions therefor shall be filed according to the
70 following schedule:

71 1. For a general election in November, by 7:00 p.m. on the second Tuesday in June;

72 2. For a general election in May, by 7:00 p.m. on the first Tuesday in March;

73 3. For a special election held at the same time as a November general election, either (i) at least 81
74 days before the election or (ii) if the special election is being held at the second November election after
75 the vacancy occurred, by 7:00 p.m. on the second Tuesday in June before that November election;

76 4. For a special election held at the same time as a May general election, by 7:00 p.m. on the first
77 Tuesday in March; or

78 5. For a special election held at a time other than a general election, (i) at least ~~45~~ 60 days before
79 the election or (ii) within five days of any writ of election or order calling a special election to be held
80 less than 45 60 days after the issuance of the writ or order.

81 § 24.2-685. Special elections; request for abolition of constitutional offices.

82 A. The provisions of this section shall be applicable to the holding of any referendum, elsewhere
83 authorized by law, on the abolition of any constitutional office conducted prior to a request for a special
84 act of the General Assembly to abolish such office.

85 B. Notwithstanding any other provision of general law or any special act, no referendum subject to
86 the provisions of this section shall be held unless:

87 1. Petitions are filed with the circuit court of the county or city requesting that a referendum be held
88 to authorize a request for a special act on the abolition of the named office;

89 2. The petitions are signed by qualified voters of the county or city equal in number to ~~twenty~~ 20
90 percent of the total vote cast in the county or city for presidential electors in the last preceding
91 presidential election; and

92 3. The petitions are filed with the court within ~~ninety~~ 90 days of the first signature on the petitions,
93 and the petitions show the date each signature was affixed.

94 C. Upon filing of a valid petition, the court shall order the election and state the question to be
95 placed on the ballot in its order. The court shall order the referendum to be held at the next general
96 election for members of the governing body of the county or city held at least ~~sixty~~ 81 days after the
97 date of the order.

98 D. After a referendum is conducted pursuant to this section with respect to the abolition of a
99 particular office, no other referendum with respect to the abolition of the same office shall be held in
100 the same county or city pursuant to this section for a period of eight years.

101 E. No special act authorizing the abolition of any such office shall be considered by the General
102 Assembly without court certification that a referendum has been conducted pursuant to this section and
103 that a majority of the qualified voters voting thereon have approved the request for a special act.