

16102078D

## SENATE BILL NO. 62

Offered January 13, 2016

Prefiled December 18, 2015

A *BILL to amend and reenact §§ 24.2-542, 24.2-543, and 24.2-673 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.2-202.1, relating to electors for President and Vice President; allocation of electoral votes.*

Patron—Carrico

Referred to Committee on Privileges and Elections

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

**1. That §§ 24.2-542, 24.2-543, and 24.2-673 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.2-202.1 as follows:**

**§ 24.2-202.1. Allocation of electoral votes.**

A. *The total number of electoral votes to which Virginia is entitled by virtue of its representation in the Congress of the United States shall be allocated among the slates of presidential electors according to the proportional share received by each slate of the total number of votes cast statewide for President. The allocation shall be in whole numbers and shall be determined in accordance with the provisions of this section.*

B. *The total number of votes cast for all slates of electors shall be divided by the number of electoral votes to which Virginia is entitled by virtue of its representation in the Congress of the United States. The resulting quotient shall be the Popular Vote Value. The number of electoral votes to be allocated to each slate of presidential electors shall be calculated, for each such slate, by (i) dividing the total number of votes cast for such slate by the Popular Vote Value and (ii) rounding the quotient to the nearest whole number. No slate of presidential electors shall be entitled to any electoral vote if the result of clause (ii) is zero.*

C. *If the total number of electoral votes allocated by the method described in subsection B results in a sum of electoral votes greater than that to which Virginia is entitled, the electoral vote allocated to the slate entitled to at least one electoral vote and receiving the fewest number of votes cast shall be reduced by whole electoral votes until the number of electoral votes allocated equals the number of electoral votes to which Virginia is entitled.*

D. *If the total number of electoral votes allocated by the method described in subsection B results in a sum of electoral votes that is less than the number of electoral votes to which Virginia is entitled, the slate receiving the highest number of votes shall receive any unallocated electoral votes until all the electoral votes to which Virginia is entitled have been allocated. If two or more slates have received the identical number of votes cast, the Secretary of the Commonwealth shall determine by lot which of the presidential slates shall have their numbers of electoral votes increased or decreased by a whole electoral vote until all the electoral votes to which Virginia is entitled have been allocated.*

E. *The order in which political parties pursuant to § 24.2-542, or other groups pursuant to § 24.2-543, have listed their slates of electors shall determine the individual electors who are elected. For each slate that is entitled to at least one electoral vote, the first elector listed on the slate shall be deemed to be elected and so on through the party or group slate of electors until the number elected from that slate equals the number of electoral votes to which the party or group is entitled.*

**§ 24.2-542. State Board to be furnished names of electors selected by political parties; oaths of electors.**

In elections for President and Vice President of the United States, the appropriate chairman or secretary of each political party shall furnish to the State Board by noon of the seventy-fourth day before the presidential election (i) the names of the electors selected by the party at its convention held for that purpose, together with the names of the political party and of the candidates for President and Vice President for whom the electors are required to vote in the Electoral College and (ii) a copy of a subscribed and notarized oath by each elector stating that he will, if elected, cast his ballot for the candidates for President and Vice President nominated by the party that selected the elector, or as the party may direct in the event of death, withdrawal or disqualification of the party nominee. *The names of electors shall be listed in the order in which the political party wishes to have its successful candidates for elector determined pursuant to § 24.2-202.1.* In the event of the death or withdrawal of a candidate of a political party for President or Vice President, that party may substitute the name of a different candidate before the State Board certifies to the county and city electoral boards the form of the official ballots. The State Board shall also be furnished, if it requests, with satisfactory evidence that

INTRODUCED

SB62

59 any person undertaking to act as an elector on behalf of any political party is, in fact, duly and properly  
60 authorized to do so.

61 **§ 24.2-543. How other groups may submit names of electors; oaths of electors.**

62 A. A group of qualified voters, not constituting a political party as defined in § 24.2-101, may have  
63 the names of electors selected by them, including one elector residing in each congressional district and  
64 two from the Commonwealth at large, printed upon the official ballot to be used in the election of  
65 electors for President and Vice President by filing a petition pursuant to this section. The petition shall  
66 be filed with the State Board by noon of the seventy-fourth day before the presidential election. The  
67 petition shall be signed by at least 5,000 qualified voters and include signatures of at least 200 qualified  
68 voters from each congressional district. The petition shall be signed by petitioners on and after January 1  
69 of the year of the presidential election only and contain the residence address of each petitioner. The  
70 signature of each petitioner shall be witnessed either by a person who is a constitutionally qualified  
71 candidate for President of the United States, who may witness his own petition, or by a person who is a  
72 resident of the Commonwealth and who is not a minor or a felon whose voting rights have not been  
73 restored and whose affidavit to that effect appears on each page of the petition. The petition shall state  
74 the names of the electors selected by the petitioners, the party name under which they desire the named  
75 electors to be listed on the ballot, and the names of the candidates for President and Vice President for  
76 whom the electors are required to vote in the Electoral College. *The names of electors shall be listed in*  
77 *the order in which the petitioning group wishes to have its successful candidates for elector determined*  
78 *pursuant to § 24.2-202.1.* The persons filing the petition shall file with it a copy of a subscribed and  
79 notarized oath by each elector stating that he will, if elected, cast his ballot for the candidates for  
80 President and Vice President named in the petition, or as the party may direct in the event of death,  
81 withdrawal or disqualification of the party nominee. In order to utilize a selected party name on the  
82 ballot, the petitioners shall have had a state central committee composed of registered voters from each  
83 congressional district of the Commonwealth, a party plan and bylaws, and a duly designated chairman  
84 and secretary in existence and holding office for at least six months prior to filing the petition. The State  
85 Board may require proof that the petitioners meet these requirements before permitting use of a party  
86 name on the ballot. The party name shall not be identical with or substantially similar to the name of  
87 any political party qualifying under § 24.2-101 and then in existence.

88 In the event of the death or withdrawal of a candidate for President or Vice President qualified to  
89 appear on the ballot by party name, that party may substitute the name of a different candidate before  
90 the State Board certifies to the county and city electoral boards the form of the official ballots.

91 In the event that a group of qualified voters meets the requirements set forth in this section except  
92 that they cannot utilize a party name, the electors selected and the candidates for President and Vice  
93 President shall be identified and designated as "Independent" on the ballot. Substitution of a different  
94 candidate for Vice President may be made by the candidate for President before the State Board certifies  
95 to the county and city electoral boards the form of the official ballot.

96 In the event of the death or disqualification of any person listed as an elector for candidates for  
97 President and Vice President on a petition filed pursuant to this section, the party or candidate for  
98 President, as applicable, may substitute the name of a different elector. Such substitution shall not  
99 invalidate any petition of qualified voters circulated with the name of the deceased or disqualified  
100 elector provided that notice of the substitution is filed with the State Board by noon of the  
101 seventy-fourth day before the presidential election. Notice of the substitution and the name of any  
102 substitute elector shall be submitted on a form prepared by the State Board.

103 B. If the State Board determines that a candidate for President does not qualify to have his name  
104 appear on the ballot pursuant to this section by reason of the candidate's filed petition not containing the  
105 minimum number of signatures of qualified voters for the office sought, the candidate may appeal the  
106 determination to the State Board within seven calendar days of the issuance of the notice of  
107 disqualification. The notice of disqualification shall be sent by email or regular mail to the address on  
108 file for the candidate, and such notice shall be deemed sufficient. The State Board shall hear the appeal  
109 within three business days of its filing.

110 The State Board shall develop procedures for the conduct of such an appeal. The consideration on  
111 appeal shall be limited to whether or not the signatures on the petitions that were filed were reasonably  
112 rejected according to the requirements of this title and the rules and procedures set forth by the State  
113 Board for checking petitions. Immediately after the conclusion of the appeal hearing, the State Board  
114 shall notify the candidate of its decision in writing. The decision on appeal shall be final and not subject  
115 to further appeal.

116 **§ 24.2-673. Candidates having highest number of votes to receive certificate of election.**

117 Except in the case of a *presidential election pursuant to §§ 24.2-202, 24.2-202.1, and 24.2-203 or a*  
118 *recount pursuant to the provisions of Chapter 8 (§ 24.2-800 et seq.) of this title*, in all elections for the  
119 choice of any officer, unless it is otherwise expressly provided, the person having the highest number of  
120 votes for any office shall be deemed to have been elected to such office and shall receive the certificate

**121** of election.