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HOUSE BILL NO. 2048

Offered January 9, 2019

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A BILL to amend and reenact §§ 15.2-3226, 24.2-101, 24.2-311, 24.2-503, 24.2-507, 24.2-510, 24.2-515, and 24.2-515.1 of the Code of Virginia, relating to elections; dates of June primary election and May general election.

 Patron—McGuire

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 15.2-3226, 24.2-101, 24.2-311, 24.2-503, 24.2-507, 24.2-510, 24.2-515, and 24.2-515.1 of the Code of Virginia are amended and reenacted as follows:

§ 15.2-3226. Redistricting and elections in city or town following annexation; registration and transfer of registration of voters in annexed territory.

A. Whenever the boundaries of a city or town, which elects its council by wards or districts, have been expanded through annexation, subject to the provisions of § 24.2-304.1, the council of the city or town shall redistrict the municipality into wards or districts, change the boundaries of existing wards or districts, or increase or diminish the number of wards or districts to incorporate the additional territory.

B. Notwithstanding the provisions of § 24.2-312, there shall be an election for members of council on the ~~first~~ *second* Tuesday in May following the effective date of annexation for terms to commence on July 1 following the election; however, upon the approval of the governing bodies affected and the special court, such election may be on the Tuesday after the first Monday in November following the effective date of annexation for terms to commence on January 1 following the election. If council members are chosen on an at-large basis the election shall be held for the unexpired portion of the term of each council member whose term extends beyond July 1 immediately following the effective date of annexation. If council members are chosen on a ward basis, the election shall be held for each ward affected by the annexation. However, no such election shall be held as a result of an annexation instituted under § 15.2-3202 or § 15.2-3203, unless the city or town increases its population by more than five percent due to the annexation.

C. The registration records of voters residing in the annexed areas shall be transferred, and the appropriate notice given, in accordance with § 24.2-114. Any person residing in the annexed territory who has not registered shall be entitled to register and vote in the city or town if he would have been entitled to register and vote at the next election of the county.

§ 24.2-101. Definitions.

As used in this title, unless the context requires a different meaning:

"Ballot scanner machine" means the electronic counting machine in which a voter inserts a marked ballot to be scanned and the results tabulated.

"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.

"Department of Elections" or "Department" means the state agency headed by the Commissioner of

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60 "Direct recording electronic machine" or "DRE" means the electronic voting machine on which a
61 voter touches areas of a computer screen, or uses other control features, to mark a ballot and his vote is
62 recorded electronically.

63 "Election" means a general, primary, or special election.

64 "Election district" means the territory designated by proper authority or by law which is represented
65 by an official elected by the people, including the Commonwealth, a congressional district, a General
66 Assembly district, or a district for the election of an official of a county, city, town, or other
67 governmental unit.

68 "Electoral board" or "local electoral board" means a board appointed pursuant to § 24.2-106 to
69 administer elections for a county or city. The electoral board of the county in which a town or the
70 greater part of a town is located shall administer the town's elections.

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

73 "General election" means an election held in the Commonwealth on the Tuesday after the first
74 Monday in November or on the ~~first~~ *second* Tuesday in May for the purpose of filling offices regularly
75 scheduled by law to be filled at those times.

76 "General registrar" means the person appointed by the electoral board of a county or city pursuant to
77 § 24.2-110 to be responsible for all aspects of voter registration, in addition to other duties prescribed by
78 this title. When performing duties related to the administration of elections, the general registrar is acting
79 in his capacity as the director of elections for the locality in which he serves.

80 "Machine-readable ballot" means a tangible ballot that is marked by a voter or by a system or device
81 operated by a voter and then fed into and scanned by a counting machine capable of reading ballots and
82 tabulating results.

83 "Officer of election" means a person appointed by an electoral board pursuant to § 24.2-115 to serve
84 at a polling place for any election.

85 "Paper ballot" means a tangible ballot that is marked by a voter and then manually counted.

86 "Party" or "political party" means an organization of citizens of the Commonwealth which, at either
87 of the two preceding statewide general elections, received at least 10 percent of the total vote cast for
88 any statewide office filled in that election. The organization shall have a state central committee and an
89 office of elected state chairman which have been continually in existence for the six months preceding
90 the filing of a nominee for any office.

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

93 "Polling place" means the structure that contains the one place provided for each precinct at which
94 the qualified voters who are residents of the precinct may vote.

95 "Precinct" means the territory designated by the governing body of a county, city, or town to be
96 served by one polling place.

97 "Primary" or "primary election" means an election held for the purpose of selecting a candidate to be
98 the nominee of a political party for election to office.

99 "Printed ballot" means a tangible ballot that is printed on paper and includes both machine-readable
100 ballots and paper ballots.

101 "Qualified voter" means a person who is entitled to vote pursuant to the Constitution of Virginia and
102 who is (i) 18 years of age on or before the day of the election or qualified pursuant to § 24.2-403 or
103 subsection D of § 24.2-544, (ii) a resident of the Commonwealth and of the precinct in which he offers
104 to vote, and (iii) a registered voter. No person who has been convicted of a felony shall be a qualified
105 voter unless his civil rights have been restored by the Governor or other appropriate authority. No
106 person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as
107 provided by law. Whether a signature should be counted towards satisfying the signature requirement of
108 any petition shall be determined based on the signer of the petition's qualification to vote. For purposes
109 of determining if a signature on a petition shall be included in the count toward meeting the signature
110 requirements of any petition, "qualified voter" shall include only persons maintained on the Virginia
111 voter registration system (a) with active status and (b) with inactive status who are qualified to vote for
112 the office for which the petition was circulated.

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

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

118 "Registered voter" means any person who is maintained on the Virginia voter registration system. All
119 registered voters shall be maintained on the Virginia voter registration system with active status unless
120 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. For purposes of determining if a signature on a petition shall be included in the count toward meeting the signature requirements of any petition, "registered voter" shall include only persons maintained on the Virginia voter registration system (i) with active status and (ii) on inactive status who are qualified to vote for the office for which the petition was circulated.

"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.

"Voting system" means the electronic voting and counting machines used at elections. This term includes direct recording electronic machines (DRE) and ballot scanner machines.

§ 24.2-311. Effective date of decennial redistricting measures; elections following decennial redistricting.

A. Legislation enacted to accomplish the decennial redistricting of congressional and General Assembly districts required by Article II, Section 6 of the Constitution of Virginia shall take effect immediately. Members of Congress and the General Assembly in office on the effective date of the decennial redistricting legislation shall complete their terms of office. The elections for their successors shall be held at the November general election next preceding the expiration of the terms of office of the incumbent members and shall be conducted on the basis of the districts set out in the legislation to accomplish the decennial redistricting. However, (i) if the decennial redistricting of congressional districts has not been enacted and approved for implementation pursuant to § 5 of the United States Voting Rights Act of 1965 before January 1 of the year of the election for statewide office, the previously enacted congressional districts shall remain in effect for the purpose of meeting the petition signature requirements set out in §§ 24.2-506, 24.2-521, 24.2-543, and 24.2-545 and (ii) any reference on a petition to the usual primary date of the ~~second~~ *third* Tuesday in June shall not be cause to invalidate the petition even though the date of the primary may be altered by law.

B. Ordinances adopted by local governing bodies to accomplish the decennial redistricting of districts for county, city, and town governing bodies required by Article VII, Section 5 of the Constitution of Virginia shall take effect immediately. Members of county, city, and town governing bodies in office on the effective date of a decennial redistricting measure shall complete their terms of office. The elections for their successors shall be held at the general election next preceding the expiration of the terms of office of the incumbent members and shall be conducted on the basis of the districts set out in the measures to accomplish the decennial redistricting.

C. If a vacancy in any such office occurs after the effective date of a decennial redistricting measure and a special election is required by law to fill the vacancy, the vacancy shall be filled from the district in the decennial redistricting measure which most closely approximates the district in which the vacancy occurred.

D. If a decennial redistricting measure adopted by a local governing body adds one or more districts and also increases the size of the governing body, an election for the additional governing body member or members to represent the additional district or districts for the full or partial term provided by law shall be held at the next November general election in any county or in any city or town that regularly elects its governing body in November pursuant to § 24.2-222.1, or at the next May general election in any other city or town, which occurs at least 120 days after the effective date of the redistricting measure.

E. In the event of a conflict between the provisions of a decennial redistricting measure and the provisions of the charter of any locality, the provisions of the redistricting measure shall be deemed to override the charter provisions to the extent required to give effect to the redistricting plan.

§ 24.2-503. Deadlines for filing required statements; extensions.

The written statements of qualification and economic interests shall be filed by (i) primary candidates

not later than the filing deadline for the primary, (ii) all other candidates for city and town offices to be filled at a May general election by 7:00 p.m. on the first Tuesday in March, (iii) candidates in special elections by the time of qualifying as a candidate, and (iv) all other candidates by 7:00 p.m. on the ~~second~~ *third* Tuesday in June.

A statement shall be deemed to be timely filed if it is mailed postage prepaid to the appropriate office by registered or certified mail and if the official receipt therefor, which shall be exhibited on demand, shows mailing within the prescribed time limits.

The State Board may grant an extension of any deadline for filing either or both written statements and shall notify all candidates who have not filed their statements of the extension. Any extension shall be granted for a fixed period of time of ~~ten~~ 10 days from the date of the mailing of the notice of the extension.

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

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

1. For a general election in November, by 7:00 p.m. on the ~~second~~ *third* Tuesday in June;
2. For a general election in May, by 7:00 p.m. on the first Tuesday in March;
3. For a special election held at the same time as a November general election, either (i) at least 81 days before the election or (ii) if the special election is being held at the second November election after the vacancy occurred, by 7:00 p.m. on the ~~second~~ *third* Tuesday in June before that November election;
4. For a special election held at the same time as a May general election, by 7:00 p.m. on the first Tuesday in March; or
5. For a special election held at a time other than a general election, (i) at least 60 days before the election or (ii) within five days of any writ of election or order calling a special election to be held less than 60 days after the issuance of the writ or order.

§ 24.2-510. Deadlines for parties to nominate by methods other than primary.

For any office, nominations by political parties by methods other than a primary shall be made and completed in the manner prescribed by law according to the following schedule:

1. For a general election in November, by 7:00 p.m. on the ~~second~~ *third* Tuesday in June;
2. For a general election in May, by 7:00 p.m. on the first Tuesday in March;
3. For a special election held at the same time as a November general election, either (i) at least 81 days before the election or (ii) if the special election is held at the second November election after the vacancy occurred, by 7:00 p.m. on the ~~second~~ *third* Tuesday in June before that November election;
4. For a special election held at the same time as a May general election, by 7:00 p.m. on the first Tuesday in March; or
5. For a special election held at a time other than a general election, (i) at least 60 days before the election or (ii) within five days of any writ of election or order calling a special election to be held less than 60 days after the issuance of the writ or order.

In the case of all general elections a party shall nominate its candidate for any office by a nonprimary method only within the 47 days immediately preceding the primary date established for nominating candidates for the office in question. This limitation shall have no effect, however, on nominations for special elections or pursuant to § 24.2-539.

§ 24.2-515. Presidential election year primaries.

Primaries for the nomination of candidates for offices to be voted on at the general election date in November shall be held on the ~~second~~ *third* Tuesday in June next preceding such election, except that beginning with the year 2012 and in presidential election years thereafter, primaries to choose among presidential candidates may be held as provided in Article 7 (§ 24.2-544 et seq.). Primaries for the nomination of candidates for offices to be voted on at the general election date in May shall be held on the first Tuesday in March next preceding such election.

§ 24.2-515.1. Schedule for primaries in the year 2001 and each tenth year thereafter.

Primaries for the nomination of candidates for the offices listed in Section 4 of Article VII of the Constitution of Virginia to be voted on at the general election in November 2001 and each tenth year thereafter shall be held on the ~~second~~ *third* Tuesday in June next preceding such election notwithstanding any special primary schedule enacted for any other office.