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**HOUSE BILL NO. 216**

Offered January 8, 2020

Prefiled December 27, 2019

*A BILL to amend and reenact §§ 10.1-523, 22.1-57.3, 24.2-509, 24.2-511, 24.2-613, and 24.2-673 of the Code of Virginia and to repeal §§ 10.1-524 through 10.1-528 of the Code of Virginia, relating to nomination of candidates for elected offices; primary election or partisan nomination process required; restrictions on nomination method selected by political party; party identification on ballots.*

Patron—Helmer

Referred to Committee on Privileges and Elections

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

**1. That §§ 10.1-523, 22.1-57.3, 24.2-509, 24.2-511, 24.2-613, and 24.2-673 of the Code of Virginia are amended and reenacted as follows:**

**§ 10.1-523. Posting of notice of deadlines for elections for directors of districts.**

A. Beginning 30 days after the date of issuance by the Secretary of the Commonwealth of a certificate of organization of a district, but not later than the filing date specified in § 24.2-507 for the November 2003 general election and each fourth year thereafter, nominating petitions, statements of qualifications, and declarations of candidacy shall be filed with the general registrar of the county or city where the candidate resides, pursuant to §§ 24.2-501, 24.2-503, 24.2-505, 24.2-506, and 24.2-507, to nominate candidates for elected directors of such districts. Nominating petitions, statements of qualifications, and declarations of candidacy for elected directors of existing districts shall be filed with the general registrar of the county or city where the candidate resides, pursuant to §§ 24.2-501, 24.2-503, 24.2-505, 24.2-506, and 24.2-507. Notice of the date for filing such petitions and the time of the election shall be posted in a prominent location accessible to the public at each district office at least 30 days before the filing date. In addition, districts may use newsletters, websites, public service announcements, and other notices to advise the public of elections of district directors.

B. Registered voters may sign more than one nominating petition to nominate more than one candidate for district director.

C. The Virginia Soil and Water Conservation Board shall notify each district of the requirement (i) to post notice of the dates for filing such petitions and the election nominating and election deadlines and (ii) that the posting shall be in a prominent location accessible to the public at each district office at least 30 days before the filing date. *Districts may use newsletters, websites, public service announcements, and other notices to advise the public of elections of district directors.*

D. Beginning in the year 2003, elections shall be held only at the November general election in 2003 and at the November general election in each fourth year thereafter.

**§ 22.1-57.3. Election of school board members; election of tie breaker.**

A. If a majority of the qualified voters voting in such referendum vote in favor of changing the method of selecting school board members to direct election by the voters, then the members of the school board shall be elected by popular vote. Elections of school board members in a county, city, or town shall be held to coincide with the elections for members of the governing body of the county, city, or town at the regular general election in November or the regular general election in May, as the case may be.

B. The initial elected board shall consist of the same number of members as the appointed school board it replaces, and the members shall be elected from the established county or municipal election districts, at large, or a combination thereof, on the same basis as the school board previously was appointed. If the appointed school board being replaced has not been appointed either on an at-large basis or on the basis of the established county or municipal election districts, or a combination thereof, the members shall be elected at large unless the governing body of the county, city, or town provides for the election of school board members on the basis of the established county or municipal election districts. If the appointed school board being replaced has been appointed at large, the governing body of the county, city, or town may establish school election districts for the election of school board members. The governing body may provide for a locality-wide district, one or more districts comprised of a part of the locality, or any combination thereof, and for the apportionment of one or more school board members to any district.

The terms of the members of the elected school board for any county, city, or town shall be the same as the terms of the members of the governing body for the county, city, or town. In any locality in

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59 which both the school board and the governing body are elected from election districts, as opposed to  
60 being elected wholly on an at-large basis, the elections of the school board member and governing body  
61 member from each specific district shall be held simultaneously except as otherwise provided in  
62 §§ 22.1-57.3:1, 22.1-57.3:1.1, and 22.1-57.3:1.2.

63 At the first election for members of the school board, so many members shall be elected as there are  
64 members to be elected at the regular election for the governing body. At each subsequent regular  
65 election for members of the governing body, the same number of members of the school board shall be  
66 elected as the number of members to be elected at the regular election to the governing body. However,  
67 if the number of members on the school board differs from the number of members of the governing  
68 body, the number of members elected to the school board at the first and subsequent general election  
69 shall be either more or less than the number of governing body members, as appropriate, to the end that  
70 the number of members on the initial elected school board is the same as the number of members on the  
71 appointed board being replaced.

72 Except as provided in §§ 22.1-57.3:1, 22.1-57.3:1.1, and 22.1-57.3:1.2, the terms of the members of  
73 the school board shall be staggered only if the terms of the members of the governing body are  
74 staggered. If there are more, or fewer, members on the school board than on the governing body, the  
75 number of members to be elected to the school board at the first and subsequent election for school  
76 board members shall be the number required to establish the staggered term structure so that (i) a  
77 majority of the members of the school board is elected at the same time as a majority of the members  
78 of the governing body; (ii) if one-half of the governing body is being elected and the school board has  
79 an even number of members, one-half of the members of the school board is elected; (iii) if one-half of  
80 the governing body is being elected and the school board has an odd number of members, the majority  
81 by one member of the school board is elected at the first election and the remainder of the school board  
82 is elected at the second election; or (iv) if a majority of the members of the governing body is being  
83 elected and the school board has an even number of members, one-half of the members of the school  
84 board is elected.

85 If the school board is elected at large and the terms of the members of the school board are  
86 staggered, the school board members to be replaced at the first election shall include all appointed  
87 school board members whose appointive terms are scheduled to expire on December 31 or on June 30,  
88 as the case may be, next following the first election of county, city or town school board members. If  
89 the number of school board members whose appointive terms are so scheduled to expire is zero or less  
90 than the number of school board members to be elected at the first election, the appointed school board  
91 members to be replaced at the first election shall also include those whose appointive terms are  
92 scheduled to expire next subsequent to the date on which the terms of office of the first elected school  
93 board members will commence. If the appointive terms of more than one school board member are  
94 scheduled to expire simultaneously, but less than all of such members are to be replaced at the first  
95 election, then the identity of such school board member or members to be replaced at the first election  
96 shall be determined by a drawing held by the county or city electoral board at least ten days prior to the  
97 last day for a person to qualify as a candidate for school board member.

98 In any case in which school board members are elected from election districts, as opposed to being  
99 elected from the county, city, or town at large, the election districts for the school board shall be  
100 coterminous with the election districts for the county, city, or town governing body, except as may be  
101 specifically provided for the election of school board members in a county, city, or town in which the  
102 governing body is elected at large.

103 C. The terms of office for the school board members shall commence on January 1 or July 1, as the  
104 case may be, following their election. On December 31 or June 30, as the case may be, following the  
105 first election of county, city or town school board members, the terms of office of the members of the  
106 school board in office through appointment shall expire and the school board selection commission, if  
107 there is one, shall be abolished. If the entire school board is not elected at the first election of school  
108 board members, only the terms of the appointed members being replaced shall so expire and the terms  
109 of the appointed members being replaced at a subsequent election shall continue or be extended to  
110 expire on December 31 or June 30, as appropriate, of the year of the election of the school board  
111 members replacing them.

112 D. Except as otherwise provided herein, a vacancy in the office of any elected school board member  
113 shall be filled pursuant to §§ 24.2-226 and 24.2-228. In any county that has adopted the urban county  
114 executive form of government and that has adopted an elected school board, any vacancy on the elected  
115 school board shall be filled in accordance with the procedures set forth in § 15.2-802, mutatis mutandis.  
116 Notwithstanding any provision of law or charter to the contrary, if no candidates file for election to a  
117 school board office and no person who is qualified to hold the office is elected by write-in votes, a  
118 vacancy shall be deemed to exist in the office as of January 1 or July 1, as the case may be, following  
119 the general election. For the purposes of this subsection and Article 6 (§ 24.2-225 et seq.) of Chapter 2  
120 of Title 24.2, local school boards comprised of elected and appointed members shall be deemed elected

school boards.

E. In order to have their names placed on the ballot, all candidates shall be nominated only by petition as provided by general law pursuant to § 24.2-506.

F. For the purposes of this section, the election and term of the mayor or chairman of the board of supervisors shall be deemed to be an election and term of a member of the governing body of the municipality or county, respectively, whether or not the mayor or chairman is deemed to be a member of the governing body for any other purpose.

G. F. No employee of a school board shall be eligible to serve on the board with whom he is employed.

H. G. Any elected school board may have a position of tie breaker for the purpose of casting the deciding vote in cases of tie votes of the school board as provided in § 22.1-75. The position of tie breaker, if any, shall be held by a qualified voter who is a resident of the county, city, or town and who shall be elected in the same manner and for the same length of term as members of the school board and at a general election at which members of the school board are elected. A vacancy in the position of tie breaker shall be filled pursuant to §§ 24.2-226 and 24.2-228.

**§ 24.2-509. Party to determine method of nominating its candidates for office; exceptions.**

A. The duly constituted authorities of the state political party shall have the right to determine the method by which a party nomination for a member of the United States Senate or for any statewide office shall be made. The duly constituted authorities of the political party for the district, county, city, or town in which any other office is to be filled shall have the right to determine the method by which a party nomination for that office shall be made. *However, a method of nomination shall not be selected if such method will have the practical effect of excluding participation in the nominating process by qualified voters who are unable to attend meetings because they are (i) a member of a uniformed service, as defined in § 24.2-452, on active duty; (ii) temporarily residing outside of the United States; (iii) a student attending a school or institution of higher education; or (iv) a person with a disability.*

B. Notwithstanding subsection A, the following provisions shall apply to the determination of the method of making party nominations. A party shall nominate its candidate for election for a General Assembly district where there is only one incumbent of that party for the district by the method designated by that incumbent, or absent any designation by him by the method of nomination determined by the party. A party shall nominate its candidates for election for a General Assembly district where there is more than one incumbent of that party for the district by a primary unless all the incumbents consent to a different method of nomination. A party, whose candidate at the immediately preceding election for a particular office other than the General Assembly (i) was nominated by a primary or filed for a primary but was not opposed and (ii) was elected at the general election, shall nominate a candidate for the next election for that office by a primary unless all incumbents of that party for that office consent to a different method.

When, under any of the foregoing provisions, no incumbents offer as candidates for reelection to the same office, the method of nomination shall be determined by the political party.

For the purposes of this subsection, any officeholder who offers for reelection to the same office shall be deemed an incumbent notwithstanding that the district which he represents differs in part from that for which he offers for election.

**§ 24.2-511. Party chairman or official to certify candidates to State Board and general registrars; failure to certify.**

A. The state, district, or other appropriate party chairman shall certify the name of any candidate who has been nominated by his party by a method other than a primary for any office to be elected by the qualified voters of (i) the Commonwealth at large, (ii) a congressional district or a General Assembly district, ~~or~~ (iii) political subdivisions jointly electing a shared constitutional officer, *or (iv) a soil and water conservation district that embraces more than one county or city, or parts thereof*, along with the date of the nomination of the candidate, to the State Board not later than five days after the last day for nominations to be made. The State Board shall notify the general registrars of the names of the candidates to appear on the ballot for such offices.

B. The party chairman of the district or political subdivision in which any other office is to be filled shall certify the name of any candidate for that office who has been nominated by his party by a method other than a primary to the State Board and to the general registrars of the cities and counties in which the name of the candidate will appear on the ballot not later than five days after the last day for nominations to be made. Should the party chairman fail to make such certification, the State Board shall declare that the candidate is the nominee of the particular party and direct that his name be treated as if certified by the party chairman.

C. In the case of a nomination for any office to be filled by a special election, the party chairman shall certify the name of any candidate (i) by the deadline to nominate the candidate or (ii) not later than five days after the deadline if it is a special election held at the second November election after the

182 vacancy occurred.

183 D. No further notice of candidacy or petition shall be required of a candidate once the party  
184 chairman has certified his name to the State Board.

185 E. In no case shall the individual who is a candidate for an office be the person who certifies the  
186 name of the party candidate for that same office. In such case the party shall designate an alternate  
187 official to certify its candidate.

188 **§ 24.2-613. Form of ballot.**

189 A. The ballots shall comply with the requirements of this title and the standards prescribed by the  
190 State Board. The names of all candidates to appear on the ballots shall be in the same font, size, and  
191 style.

192 B. ~~For elections for federal, statewide, and General Assembly offices only, each~~ Each candidate who  
193 has been nominated by a political party or in a primary election shall be identified by the name of his  
194 political party. Independent candidates shall be identified by the term "Independent." For the purpose of  
195 this section, any Independent candidate may, by producing sufficient and appropriate evidence of  
196 nomination by a "recognized political party" to the State Board, have the term "Independent" on the  
197 ballot converted to that of a "recognized political party" on the ballot and be treated on the ballot in a  
198 manner consistent with the candidates nominated by political parties. For the purpose of this section, a  
199 "recognized political party" is defined as an organization that, for at least six months preceding the filing  
200 of its nominee for the office, has had in continual existence a state central committee composed of  
201 registered voters residing in each congressional district of the Commonwealth, a party plan and bylaws,  
202 and a duly elected state chairman and secretary. A letter from the state chairman of a recognized  
203 political party certifying that a candidate is the nominee of that party and also signed by such candidate  
204 accepting that nomination shall constitute sufficient and appropriate evidence of nomination by a  
205 recognized political party. The name of the political party, the name of the "recognized political party,"  
206 or term "Independent" may be shown by an initial or abbreviation to meet ballot requirements.

207 C. Except as provided for primary elections, the State Board shall determine by lot the order of the  
208 political parties, and the names of all candidates for a particular office shall appear together in the order  
209 determined for their parties. In an election district in which more than one person is nominated by one  
210 political party for the same office, the candidates' names shall appear alphabetically in their party groups  
211 under the name of the office, with sufficient space between party groups to indicate them as such. For  
212 the purpose of this section, except as provided for presidential elections in § 24.2-614, "recognized  
213 political parties" shall be treated as a class; the order of the recognized political parties within the class  
214 shall be determined by lot by the State Board; and the class shall follow the political parties as defined  
215 by § 24.2-101 and precede the independent class. Independent candidates shall be treated as a class  
216 under "Independent", and their names shall be placed on the ballot after the political parties and  
217 recognized political parties. Where there is more than one independent candidate for an office, their  
218 names shall appear on the ballot in an order determined by the priority of time of filing for the office.  
219 In the event two or more candidates file simultaneously, the order of filing shall then be determined by  
220 lot by the electoral board as in the case of a tie vote for the office.

221 For the purposes of this subsection, "time of filing for the office" means the time at which an  
222 independent candidate has filed his petition signature pages with a number of signatures at least equal to  
223 the number required for the office pursuant to § 24.2-506. In the case of an office for which no petition  
224 is required, "time of filing for the office" means the time at which the candidate has filed his completed  
225 statement of qualification pursuant to § 24.2-501.

226 No individual's name shall appear on the ballot more than once for the same office.

227 D. On any ballot, all offices to be elected shall appear before any questions presented to the voters.

228 E. In preparing the printed ballots for general, special, and primary elections, the State Board and  
229 general registrars shall cause to be printed in not less than 10-point type, immediately below the title of  
230 any office, a statement of the number of candidates for whom votes may be cast for that office. For any  
231 office to which only one candidate can be elected, the following language shall be used: "Vote for only  
232 one." For any office to which more than one candidate can be elected, the following language shall be  
233 used: "Vote for not more than \_\_\_\_."

234 F. Any locality that uses machine-readable ballots at one or more precincts, including any central  
235 absentee precinct, may, with the approval of the State Board, use a printed reproduction of the  
236 machine-readable ballot in lieu of the official machine-readable ballot. Such reproductions shall be  
237 printed and otherwise handled in accordance with all laws and procedures that apply to official paper  
238 ballots.

239 **§ 24.2-673. Candidates having highest number of votes to receive certificate of election.**

240 A. Except in the case of a recount pursuant to the provisions of Chapter 8 (§ 24.2-800 et seq.) of this  
241 title, in all elections for the choice of any officer, unless it is otherwise expressly provided, the person  
242 having the highest number of votes for any office shall be deemed to have been elected to such office  
243 and shall receive the certificate of election.

244       *B. Notwithstanding the provisions of subsection A, in an election for the choice of directors of soil*  
245       *and water conservation districts, (i) if the district embraces one county or city, or less than one county*  
246       *or city, the three candidates who receive the highest number of the votes cast in the election shall be*  
247       *deemed to have been elected to such office and shall receive the certificate of election, and (ii) if the*  
248       *district embraces more than one county or city, or parts thereof, the two candidates from each county or*  
249       *city, or parts thereof, who receive the highest number of votes cast in the election shall be deemed to*  
250       *have been elected to such office and shall receive the certificate of election.*  
251       **2. That §§ 10.1-524 through 10.1-528 of the Code of Virginia are repealed.**