

# 2021 SPECIAL SESSION I

## SENATE SUBSTITUTE

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### HOUSE BILL NO. 2198

#### FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Senator DeSteph  
on February 24, 2021)

(Patron Prior to Substitute—Delegate Convors-Fowler)

A *BILL to amend and reenact §§ 15.2-1400, 22.1-29, 24.2-218, 24.2-222, and 24.2-223 of the Code of Virginia and to amend the Code of Virginia by adding sections numbered 15.2-1400.1 and 22.1-29.2, relating to local elections for governing bodies; elections for school boards; qualification of voters; referendum.*

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

**1. That §§ 15.2-1400, 22.1-29, 24.2-218, 24.2-222, and 24.2-223 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 15.2-1400.1 and 22.1-29.2 as follows:**

**§ 15.2-1400. Governing bodies.**

A. The qualified voters of every locality shall elect a governing body for such locality. The date, place, number, term, and other details of the election shall be as specified by law, general or special. Qualification for office is provided in *Article 4* (§ 15.2-1522 et seq.) of *Chapter 15*.

B. The governing body of every locality shall be composed of not fewer than three nor more than eleven members.

C. Chairmen, mayors, supervisors, and councilmen are subject to the prohibitions set forth in §§ 15.2-1534 and 15.2-1535.

D. A governing body may punish or fine a member of the governing body for disorderly behavior.

E. *Except as provided in § 15.2-1400.1, and notwithstanding any other provision of law, general or special, in a locality that imposes district-based or ward-based residency requirements for members of the governing body, the member elected from each district or ward shall be elected by the qualified voters of that district or ward and not by the locality at large.*

**§ 15.2-1400.1. Referendum on electing members subject to residency requirements on an at-large basis.**

A. *The governing body of any locality in which district-based or ward-based residency requirements are imposed on members of the governing body may by resolution petition the circuit court for the locality for a referendum on the question of whether, contrary to subsection E of § 15.2-1400, the member elected from each district or ward shall be elected by the locality at large. Upon the filing of the petition, which shall be filed not less than 90 days before the general election, the circuit court shall order the election officials at the next general election held in the locality to open the polls and take the sense of the voters therein on that question. The election shall be held and the results certified as provided in § 24.2-684.*

*The ballot shall be printed as follows:*

*"Shall the member of the governing body elected from a district (or ward) be elected by the qualified voters of the locality at large instead of by the qualified voters of that district (or ward)?"*

B. *If a majority of the qualified voters voting in such referendum vote in favor of electing at large the members of the governing body elected from each district or ward, the locality shall be exempt from the provisions of subsection E of § 15.2-1400 and, beginning at the next general election for the governing body, all qualified voters of the locality shall be entitled to vote for the candidates for the governing body from any district or ward.*

**§ 22.1-29. Qualifications of members.**

A. Each person appointed or elected to a school board shall, at the time of his appointment or election, be a qualified voter and a bona fide resident of the district from which he is selected if appointment or election is by district or of the school division if appointment or election is at large; and if he shall cease to be a resident of such district or school division, his position on the school board shall be deemed vacant.

B. *Except as provided in § 22.1-29.2, and notwithstanding any other provision of law, general or special, in a locality that imposes district-based or ward-based residency requirements for members of the school board, the member elected from each district or ward shall be elected by the qualified voters of that district or ward and not by the locality at large.*

**§ 22.1-29.2. Referendum on electing members subject to residency requirements on an at-large basis.**

A. *The governing body of any locality in which district-based or ward-based residency requirements are imposed on members of the school board may by resolution petition the circuit court for the locality for a referendum on the question of whether, contrary to subsection B of § 22.1-29, the member elected*

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60 from each district or ward shall be elected by the locality at large. Upon the filing of the petition,  
61 which shall be filed not less than 90 days before the general election, the circuit court shall order the  
62 election officials at the next general election held in the locality to open the polls and take the sense of  
63 the voters therein on that question. The election shall be held and the results certified as provided in  
64 § 24.2-684.

65 The ballot shall be printed as follows:

66 "Shall the member of the school board elected from a district (or ward) be elected by the qualified  
67 voters of the locality at large instead of by the qualified voters of that district (or ward)?"

68 B. If a majority of the qualified voters voting in such referendum vote in favor of electing at large  
69 the members of the school board elected from each district or ward, the locality shall be exempt from  
70 the provisions of subsection B of § 22.1-29 and, beginning at the next general election for the school  
71 board, all qualified voters of the locality shall be entitled to vote for the candidates for the board from  
72 any district or ward.

73 **§ 24.2-218. Election and term of county supervisors.**

74 A. The qualified voters of each county election district shall elect one or more supervisors at the  
75 general election in November 1995, and every four years thereafter for terms of four years, except as  
76 provided in § 24.2-219 or as provided by law for those counties having the optional form of government  
77 under the provisions of Article 2 (§ 15.2-702 et seq.) of Chapter 7 of Title 15.2.

78 B. Except as provided in § 15.2-1400.1, and notwithstanding any other provision of law, general or  
79 special, in a county that imposes district-based or ward-based residency requirements for members of  
80 the board of supervisors, the member elected from each district or ward shall be elected by the qualified  
81 voters of that district or ward and not by the county at large.

82 **§ 24.2-222. Election and terms of mayor and council for cities and towns.**

83 A. The qualified voters of each city and town shall elect a mayor, if so provided by charter, and a  
84 council for the terms provided by charter. Except as provided in § 15.2-1400.1, and notwithstanding any  
85 other provision of law, general or special, in a city or town that imposes district-based or ward-based  
86 residency requirements for members of the city or town council, the member elected from each district  
87 or ward shall be elected by the qualified voters of that district or ward and not by the locality at large.

88 B. Except as provided in § 24.2-222.1, and notwithstanding any other provision of law, general or  
89 special: (i) any election of mayor or councilmen of a city or town whose charter provides for such  
90 elections at two-year or four-year intervals shall take place at the May general election of an  
91 even-numbered year and (ii) any election of mayor or councilmen of a city or town whose charter  
92 provides for such elections at one-year or three-year intervals shall take place at the general election in  
93 May of the years designated by charter. The persons so elected shall enter upon the duties of their  
94 offices on July 1 succeeding their election and remain in office until their successors have qualified.

95 **§ 24.2-223. Election and term of school board members.**

96 In any county, city or town wherein members of the school board are elected, pursuant to Article 7  
97 (§ 22.1-57.1 et seq.) of Chapter 5 of Title 22.1, elections shall be held to coincide with the election of  
98 members of the governing body at the regular general election in November or the regular general  
99 election in May, as the case may be. Elected school board members shall serve terms ~~which~~ that are the  
100 same as those of the governing body, to commence on January 1 following their election or July 1  
101 following their election, as the case may be.

102 Except as provided in § 22.1-29.2, and notwithstanding any other provision of law, general or  
103 special, in a locality that imposes district-based or ward-based residency requirements for members of  
104 the school board, the member elected from each district or ward shall be elected by the qualified voters  
105 of that district or ward and not by the locality at large.

106 **2. That the provisions of this act shall become effective on January 1, 2022.**

107 **3. That any locality that imposes district-based or ward-based residency requirements for members**  
108 **of the governing body or the school board as of July 1, 2021, in order to be exempt from the**  
109 **requirement that such members are to be elected by the qualified voters of the district or ward,**  
110 **shall conduct a referendum pursuant to § 15.2-1400.1 or 22.1-29.2 of the Code of Virginia, as**  
111 **created by this act, on or before July 1, 2022.**