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HOUSE BILL NO. 1862

Offered January 11, 2023

Prefiled January 10, 2023

A *BILL to amend and reenact §§ 24.2-311 and 24.2-614 of the Code of Virginia; to amend the Code of Virginia by adding in Title 24.2 a chapter numbered 2.1, containing articles numbered 1 and 2, consisting of sections numbered 24.2-240 through 24.2-246; and to repeal §§ 24.2-202 through 24.2-205 and Article 6 (§§ 24.2-542, 24.2-542.1, and 24.2-543) of Chapter 5 of Title 24.2 of the Code of Virginia, relating to electors for President and Vice President of the United States; binding of electors; oaths; vacancies.*

Patron—Sullivan

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-311 and 24.2-614 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 24.2 a chapter numbered 2.1, containing articles numbered 1 and 2, consisting of sections numbered 24.2-240 through 24.2-246, as follows:

CHAPTER 2.1.**PRESIDENTIAL ELECTORS.****Article 1.****Nomination of Electors****§24.2-240. Qualifications of electors; oath.**

Each nominated elector selected pursuant to this article shall, at the time of his nomination and until the conclusion of the day electors cast their votes in the Electoral College, be a citizen of the United States and a legal resident of the Commonwealth, and shall subscribe to an oath, which shall be notarized, that he is, in fact, a citizen of the United States and a legal resident of the Commonwealth, and that he will, if elected, cast his ballot in the Electoral College for the candidates for President and Vice President of the United States as set forth in subsection A or B of § 24.2-241 or pursuant to § 24.2-242, as applicable, or as such political party or group of qualified voters may direct in the event of the death, withdrawal, or disqualification of a candidate of that party or group. The State Board shall also be furnished, if it requests, with satisfactory evidence that any individual undertaking to act as an elector under this chapter is, in fact, qualified and duly and properly authorized to do so.

§24.2-241. State Board to be furnished names of nominated electors selected by political parties; certain national conventions; vacancies.

A. In elections for President and Vice President of the United States, the appropriate chairman or secretary of each political party as defined in § 24.2-101 shall furnish to the State Board by noon on the seventy-fourth day before the presidential election (i) the names of the individuals nominated to be electors by the party at its convention held for that purpose, with the total number of its nominated electors equalizing the whole number of senators and representatives to which to Commonwealth at that time is entitled in the Congress of the United States, together with the names of the political party and of the candidates for President and Vice President for whom the nominated electors are required to vote in the Electoral College, and (ii) a copy of the subscribed and notarized oath required by § 24.2-240.

B. Notwithstanding the provisions of subsection A, (i) the state political party chairman of a political party whose national convention has been scheduled to be held after the seventy-fourth day before the presidential election shall file by noon on the seventy-fourth day before the presidential election, with the certification of its nominated electors, a certification of the individuals expected to be nominated for President and Vice President as its national convention; (ii) the State Board shall certify candidates to the local electoral boards, and ballot preparation shall proceed on the basis of the state party chairman's certifications; and (iii) the candidates for President and Vice President nominated by the party at its national convention shall be certified to the State Board no later than 5:00 p.m. on the sixtieth day before the presidential election.

C. In the event of the death, withdrawal, or disqualification of a candidate of a political party for President or Vice President, or of a nominated elector of a political party, that party may substitute the name of a different candidate or nominated elector, as applicable, before the State Board certifies to the county and city electoral boards the form of the official ballots.

§ 24.2-242. How other groups may submit names of electors; oaths of electors.

A. A group of qualified voters, not constituting a political party as defined in § 24.2-101, may have the names of nominated electors selected by them, which shall include one elector residing in each

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HB1862

59 congressional district and two from the Commonwealth at large, printed upon the official ballot to be
60 used in the election of electors for President and Vice President by filing a petition pursuant to this
61 section.

62 B. The petition shall have printed on the front of each page the names of the individuals nominated
63 to be electors by the petitioners, the party name under which they desire to be nominated electors to be
64 listed on the ballot, and the names of the candidates for President and Vice President for whom the
65 nominated electors are required to vote in the Electoral College.

66 The petition shall be signed by at least 5,000 qualified voters and include signatures of at least 200
67 qualified voters from each congressional district. The petition shall be signed by petitioners on and after
68 January 1 of the year of the presidential election and contain the residence address of each petitioner.
69 The signature of each petitioner shall be witnessed either by an individual who is a constitutionally
70 qualified candidate for President, who may witness his own petition, or by an individual who is not a
71 minor or a felon whose voting rights have not been restored and whose affidavit to that effect appears
72 on each page of the petition. Each individual circulating a petition who is not a legal resident of the
73 Commonwealth shall sign a statement on the affidavit that he consents to the jurisdiction of the courts
74 of Virginia in resolving any disputes concerning the circulation of petitions, or signatures contained
75 therein, by that individual. The signatures of qualified voters collected by a nonresident petition
76 circulator who fails to sign such statement, or who later fails to appear or produce documents when
77 properly served with a subpoena to do so, shall not be counted toward the minimum number of
78 signatures required pursuant to this subsection.

79 C. The petition shall be filed with the State Board by noon of the seventy-fourth day before the
80 presidential election. The individuals filing the petition shall file with a copy of a subscribed and
81 notarized oath by each nominated elector pursuant to § 24.2-240. In order to utilize a selected party
82 name on the ballot, the petitioners shall have had, for at least six months prior to filing the petition, a
83 state central committee composed of registered voters from each congressional district of the
84 Commonwealth, a party plan and bylaws, and a duly designated chairman and secretary in existence
85 and holding office. The State Board may require proof that the petitioners meet these requirements
86 before permitting use of a party name on the ballot. The party name shall not be identical or
87 substantially similar to the name of any political party qualifying under § 24.2-101 and then in
88 existence.

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

94 E. In the event of the death, withdrawal, or disqualification of a candidate for President or Vice
95 President qualified to appear on the ballot pursuant to this section, the petitioner may substitute the
96 name of a different candidate before the State Board certifies to the county and city electoral boards the
97 form of the official ballots.

98 In the event of the death, withdrawal, or disqualification of any individual listed as a nominated
99 elector for candidates for President and Vice President on a petition filed pursuant to this section, the
100 petitioners or candidate for President, as applicable, may substitute the name of a different nominated
101 elector. Such substitution shall not invalidate any petition of qualified voters circulated with the name of
102 the deceased, withdrawn, or disqualified nominated elector provided that notice of the substitution is
103 filed with the State Board by noon of the seventy-fourth day before the presidential election.

104 Notice of the substitution and the name of any substitute candidate or nominated elector shall be
105 submitted on a form prepared by the State Board.

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

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

119 Article 2.

120 Selection by Voters and Duties of Electors.

§ 24.2-243. Electors for President and Vice President.

The qualified voters of the Commonwealth shall choose the Commonwealth's electors for President and Vice President of the United States at the general election in November 2024 and every fourth year thereafter. Each voter shall vote for a number of electors that equals the whole number of senators and representatives to which the Commonwealth at the time is entitled in the Congress of the United States.

§ 24.2-244. Convening of electors; filling vacancies; how electors required to vote.

A. The electors shall convene at the Capitol building in the capital city of the Commonwealth at noon on the first Monday after the second Wednesday in December following their election.

B. Those electors present shall immediately fill, by ballot and by a plurality of votes, any vacancy due to death, withdrawal, disqualification, failure or inability to attend, or other cause. When all electors are present and any vacancies have been filled, they shall proceed to perform the duties required of such electors by the Constitution and laws of the United States.

C. Electors selected by the state convention of any political party as defined in § 24.2-101 shall be required to vote for the nominees of the national convention to which the state convention elects delegates. Electors named in any petition of qualified voters as provided in § 24.2-242 shall be required to vote for the individuals named for President and for Vice President in the petition. Any elector who refuses to present a ballot, presents an unmarked ballot, or presents a ballot marked in violation of the elector's oath signed and notarized pursuant to § 24.2-240 shall be deemed to vacate the office of elector. Such vacancy shall be filled immediately by those electors present pursuant to subsection B.

§ 24.2-245. Election of electors and meeting when Congress prescribes a different day.

If Congress establishes a different day for choosing electors, or appoints a different day for their meeting to give their votes, then the election shall be held and the meeting of the electors shall take place on those days.

§ 24.2-246. Pay of electors.

Each elector shall receive the sum of \$50 per day while actually engaged in the discharge of his official duties and the same mileage as is allowed to members of the General Assembly.

§ 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 §§ 24.2-242, 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 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.

§ 24.2-614. Preparation and form of presidential election ballots.

As soon as practicable after the seventy-fourth day before the presidential election, the State Board shall certify to the general registrar of each county and city the form of official ballot for the presidential election which shall be uniform throughout the Commonwealth. Each general registrar shall have the official ballot printed at least 45 days preceding the election.

The ballot shall contain the name of each political party and the party group name, if any, specified by the ~~persons~~ *individuals* naming electors by petition pursuant to § ~~24.2-543~~ 24.2-242. Below the party name in parentheses, the ballot shall contain the words "Electors for _____, President and _____, Vice President" with the blanks filled in with the names of the candidates for President and Vice President for whom the candidates for electors are expected to vote in the Electoral College.

Groups of petitioners qualifying for a party name under § ~~24.2-543~~ 24.2-242 shall be treated as a class; the order of the groups shall be determined by lot by the State Board; and the groups shall immediately precede the independent class on the ballot. The names of the candidates within the independent class shall be listed alphabetically.

2. That §§ 24.2-202 through 24.2-205 and Article 6 (§§ 24.2-542, 24.2-542.1, and 24.2-543) of Chapter 5 of Title 24.2 of the Code of Virginia are repealed.