

23102764D

SENATE BILL NO. 1328

Offered January 11, 2023

Prefiled January 10, 2023

A BILL to amend and reenact §§ 24.2-101, 24.2-230, 24.2-233, as it is currently effective and as it shall become effective, 24.2-234, 24.2-235, 24.2-236, 24.2-682, and 24.2-945.1 of the Code of Virginia; to amend the Code of Virginia by adding sections numbered 24.2-233.1 and 24.2-233.2 and by adding in Article 5 of Chapter 6 of Title 24.2 a section numbered 24.2-688; and to repeal §§ 24.2-237 and 24.2-238 of the Code of Virginia, relating to removal of elected officers and certain appointed officers; recall election.

Patrons—McClellan and Boysko

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-101, 24.2-230, 24.2-233, as it is currently effective and as it shall become effective, 24.2-234, 24.2-235, 24.2-236, 24.2-682, and 24.2-945.1 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 24.2-233.1 and 24.2-233.2 and by adding in Article 5 of Chapter 6 of Title 24.2 a section numbered 24.2-688 as follows:

§ 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 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, § 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 Elections.

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

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

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

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

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

"General election" means an election held in the Commonwealth on the Tuesday after the first

INTRODUCED

SB1328

Monday in November or on the first Tuesday in May for the purpose of filling offices regularly scheduled by law to be filled at those times.

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

"Machine-readable ballot" means a tangible ballot that is marked by a voter or by a system or device operated by a voter, is available for verification by the voter at the time the ballot is cast, and is then fed into and scanned by a separate counting machine capable of reading ballots and tabulating results.

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

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

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

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

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

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

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

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

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

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

"Recall election" means an election held pursuant to law for the purpose of removing from office an elected officer or an officer appointed to an elected office, except officers for whose removal the Constitution of Virginia specifically provides.

"Referendum" means any election held pursuant to law to submit a question to the voters for approval or rejection. For purposes of Chapter 9.3 (§ 24.2-945 et seq.), "referendum" shall include recall elections.

"Registered voter" means any person who is maintained on the Virginia voter registration system. All registered voters shall be maintained on the Virginia voter registration system with active status unless 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, *or to recall an elected officer or an officer appointed to elective office.*

"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, including direct recording electronic machines (DRE), ballot scanner machines, and on-demand ballot printing systems and ballot marking devices used to manufacture or mark ballots to be cast by voters on electronic voting and counting machines.

§ 24.2-230. Applicability of article; certain exceptions.

A. This article shall apply to all elected or appointed Commonwealth, constitutional, and local officers, except officers for whose removal the Constitution of Virginia specifically provides.

~~However,~~ B. *Notwithstanding subsection A*, an appointed officer shall be removed from office only by the person or authority who appointed him unless (i) he is sentenced for a crime as provided for in § 24.2-231 or, (ii) he is determined to be "mentally incompetent" as provided for in § 24.2-232. ~~This exception shall not apply to an officer who is (i), (iii) he was appointed to fill a vacancy in an elective office, or (ii) (iv) he was appointed to an office for a term established by law and the appointing person or authority is not given the unqualified power of removal.~~

C. This article shall be applicable to members of local electoral boards and general registrars, but shall not be applicable to deputy registrars who may be removed from office by the general registrar pursuant to § 24.2-112 or to officers of election who may be removed from office by the local electoral board pursuant to § 24.2-109.

D. *As used in this article, "official sponsor" or "sponsor" means a registered voter who circulates or signs an application for a recall petition and (i) was registered and eligible to vote in the last election held for the office held by the officer for whom a recall election is sought and (ii) is qualified to vote for such office at the time of circulating or signing the application for a recall petition.*

§ 24.2-233. (Effective until January 1, 2024) Removal through recall election; elected and certain appointed officers.

~~Upon petition, a circuit court may remove from office any~~ A. Any elected officer or any officer who has been appointed to fill an elective office, ~~residing within the jurisdiction of the court may be removed from office through a recall election:~~

1. For neglect of duty, misuse of office, or incompetence in the performance of duties when that neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse effect upon the conduct of the office;

2. Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and after all rights of appeal have terminated involving the:

a. Manufacture of, sale of, gift of, distribution of, or possession of with intent to manufacture, sell, give, or distribute a controlled substance or marijuana;

b. Sale of, possession of with intent to sell, or placing of an advertisement for the purpose of selling drug paraphernalia; or

c. Possession of any controlled substance or marijuana and such conviction under subdivision a, b, or c has a material adverse effect upon the conduct of such office;

3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a "hate crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon the conduct of such office; or

4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of § 18.2-67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into dwelling or enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of age or older in violation of § 18.2-371, or indecent exposure of himself or procuring another to expose himself in violation of § 18.2-387, and such conviction has a material adverse effect upon the conduct of such office.

The petition must be signed by a number of registered voters who reside within the jurisdiction of the officer equal to ten percent of the total number of votes cast at the last election for the office that the officer holds.

B. *An officer shall be subject to a recall election only if (i) an application for a recall petition with*

182 *the required number of official sponsors is filed with and found to be legally sufficient by the general*
183 *registrar in accordance with § 24.2-233.1 and (ii) a recall petition with the required number of voter*
184 *signatures is filed with and certified as legally sufficient by the general registrar in accordance with*
185 *§ 24.2-233.2. A recall election held pursuant to this section shall be conducted in accordance with §*
186 *24.2-688.*

187 C. Any person removed from office under the provisions of subdivision A 2, 3, or 4 may not be
188 subsequently subject to the provisions of this section for the same criminal offense.

189 **§ 24.2-233. (Effective January 1, 2024) Removal through recall election; elected and certain**
190 **appointed officers.**

191 ~~Upon petition, a circuit court may remove from office any~~ A. Any elected officer or any officer who
192 has been appointed to fill an elective office, ~~residing within the jurisdiction of the court may be removed~~
193 ~~from office through a recall election:~~

194 1. For neglect of duty, misuse of office, or incompetence in the performance of duties when that
195 neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse
196 effect upon the conduct of the office;

197 2. Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.) or Article 1.1
198 (§ 18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and after all rights of appeal have terminated involving
199 the:

200 a. Manufacture of, sale of, gift of, distribution of, or possession of with intent to manufacture, sell,
201 give, or distribute a controlled substance;

202 b. Sale of, possession of with intent to sell, or placing of an advertisement for the purpose of selling
203 drug paraphernalia; or

204 c. Possession of any controlled substance and such conviction under subdivision a, b, or c has a
205 material adverse effect upon the conduct of such office;

206 3. Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a
207 "hate crime" as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon
208 the conduct of such office; or

209 4. Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of
210 § 18.2-67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying into
211 dwelling or enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15 years of
212 age or older in violation of § 18.2-371, or indecent exposure of himself or procuring another to expose
213 himself in violation of § 18.2-387, and such conviction has a material adverse effect upon the conduct
214 of such office.

215 The petition must be signed by a number of registered voters who reside within the jurisdiction of
216 the officer equal to 10 percent of the total number of votes cast at the last election for the office that the
217 officer holds.

218 B. An officer shall be subject to a recall election only if (i) an application for a recall election
219 petition with the required number of official sponsors is filed with and found to be legally sufficient by
220 the general registrar in accordance with § 24.2-233.1 and (ii) a recall election petition with the required
221 number of voter signatures is filed with and certified as legally sufficient by the general registrar in
222 accordance with § 24.2-233.2. A recall election held pursuant to this section shall be conducted in
223 accordance with § 24.2-688.

224 C. Any person removed from office under the provisions of subdivision A 2, 3, or 4 may not be
225 subsequently subject to the provisions of this section for the same criminal offense.

226 **§ 24.2-233.1. Removal through recall election; application for recall election petition.**

227 A. Any person seeking the removal of an elected officer or an officer appointed to an elected office
228 shall first file an application for a recall election petition (application) with the general registrar for the
229 locality in which such officer resides. Such application shall be made on a form approved by the State
230 Board for such purpose and shall require the following information to be provided:

231 1. The name of the officer for whom removal by recall election is sought and the office held by him;

232 2. A statement of the grounds on which the removal by recall election is sought;

233 3. The printed name, residence address, and signature of each official sponsor, along with the date
234 on which the sponsor signed the application;

235 4. The designation of one of the sponsors as the petition chairperson who shall represent the
236 sponsors on all matters pertaining to the application and petition; and

237 5. An affidavit by the petition chairperson that each official sponsor of the application is a registered
238 voter qualified to vote for the office for which the application was circulated.

239 B. Applications for recall election petition shall be distributed by the general registrars. A completed
240 application shall be filed with the general registrar within 15 days of the application being issued to the
241 person seeking an officer's removal by recall and no application shall be accepted for verification after
242 such time. The general registrar shall not distribute or accept any application during the first 180 days
243 or the last 180 days of the term of office of the officer whose recall is sought.

C. Upon receipt of an application for recall election petition, the general registrar shall review the application to determine its legal sufficiency, including whether it has the requisite number of official sponsors and if removal by recall election of the subject of the application has been previously attempted on the same grounds. An application shall be signed by a minimum of 100 official sponsors or a number equal to 10 percent of the total number of votes cast at the last election for the office held by the officer, whichever is smaller. If the general registrar finds that any person signing the application is not a qualified voter eligible to sign the application as an official sponsor, such person shall not be counted in determining whether the application has the requisite number of official sponsors, but such a finding shall not invalidate the entire application. The general registrar shall certify whether an application is legally sufficient within 10 business days of receipt of the application.

D. Upon certifying an application for recall election petition as legally sufficient, the general registrar shall issue to the petition chairperson the official recall election petition and provide him with the forms and instructions prescribed by the State Board of Elections pursuant to § 24.2-946 for compliance with the Campaign Finance Disclosure Act of 2006. The general registrar shall also immediately notify in writing the public officer named for recall in the application that a recall election petition has been officially issued for circulation.

§ 24.2-233.2. Removal through recall election; recall election petition.

A. Any person seeking the removal of an elected officer or an officer appointed to an elected office shall file a recall election petition (petition) with the general registrar for the locality in which such officer resides. Such petition shall be on a form prescribed by the State Board, signed by a number of registered voters equal to at least 30 percent of the total number of votes cast at the last election for the office that the officer holds and listing the residence address of each such voter. Each signature on the petition shall be witnessed by the circulator of the petition, who shall sign an affidavit that (i) he is not a minor or a felon whose voting rights have not been restored, (ii) each of the names on the petition was signed in his presence on the date indicated and that in his belief each signer was a qualified voter for the office sought to be recalled, and (iii) if he is not a legal resident of the Commonwealth, that he consents to the jurisdiction of the courts of the Commonwealth in resolving any disputes concerning the circulation of petitions, or signatures contained therein.

Each voter signing the petition may provide on the petition the last four digits of his social security number, if any; however, noncompliance with this requirement shall not be cause to invalidate the voter's signature on the petition.

B. Upon certifying an application for a recall petition as legally sufficient, the general registrar shall issue to the petition chairperson the official recall petition and provide him with the forms and instructions prescribed by the State Board of Elections pursuant to § 24.2-946 for compliance with the Campaign Finance Disclosure Act of 2006. Any recall petition circulated prior to an application being filed with the general registrar and certified to be legally sufficient by such registrar shall not be valid for purposes of initiating a recall election.

C. Every qualified voter signing a recall petition shall do so in the presence of the person circulating the petition, who is to execute the affidavit on the petition form. At the time of signing, the qualified voter shall sign his name, and such qualified voter or the person circulating the petition shall, in the appropriate spaces following the signature, print the qualified voter's full name, residence address, and the date on which the qualified voter signed the petition.

If a qualified voter is incapable of signing his own name, he may specifically request the circulator of the petition to sign and print his name and complete the information required on the petition form to accompany the signature, provided, however, that the circulator shall also sign his full name beside the printed name of such voter.

D. A completed recall petition shall be filed with the general registrar for verification no later than 90 days after the recall petition forms were issued to the petition chairperson. Once a completed recall petition has been filed for verification, it may not be amended, supplemented, or otherwise modified and returned.

E. The general registrar shall determine the sufficiency of the recall petition within 30 days after it has been filed. Review of the legal sufficiency of recall petitions shall be conducted according to uniform standards approved by the State Board. Each qualified voter signing the petition shall have been registered in the jurisdiction for which the petition is circulated at the time of signing the petition and at the time of validating the petition signatures.

F. Upon certifying the sufficiency or insufficiency of a recall petition, the general registrar shall immediately notify the petition chairman and the officer who is named on the recall petition in writing of the results and officially file the certification of the sufficiency of the petition with the local circuit court.

§ 24.2-234. Removal by courts; officer appointed for a term certain.

A. Any officer appointed to an office for a term established by law may be removed from office;

305 under the provisions of ~~§ 24.2-233~~, upon a petition filed with the circuit court in whose jurisdiction the
306 officer resides signed by the person or a majority of the members of the authority who appointed him, if
307 the appointing person or authority is not given the unqualified power of removal:

308 1. *For neglect of duty, misuse of office, or incompetence in the performance of duties when that*
309 *neglect of duty, misuse of office, or incompetence in the performance of duties has a material adverse*
310 *effect upon the conduct of the office;*

311 2. *Upon conviction of a misdemeanor pursuant to Article 1 (§ 18.2-247 et seq.) or Article 1.1 (§*
312 *18.2-265.1 et seq.) of Chapter 7 of Title 18.2 and after all rights of appeal have terminated involving*
313 *the:*

314 a. *Manufacture of, sale of, gift of, distribution of, or possession of with intent to manufacture, sell,*
315 *give, or distribute a controlled substance;*

316 b. *Sale of, possession of with intent to sell, or placing of an advertisement for the purpose of selling*
317 *drug paraphernalia; or*

318 c. *Possession of any controlled substance and such conviction under subdivision a, b, or c has a*
319 *material adverse effect upon the conduct of such office;*

320 3. *Upon conviction, and after all rights of appeal have terminated, of a misdemeanor involving a*
321 *hate crime as that term is defined in § 52-8.5 when the conviction has a material adverse effect upon*
322 *the conduct of such office; or*

323 4. *Upon conviction, and after all rights of appeal have terminated, of sexual battery in violation of*
324 *§ 18.2-67.4, attempted sexual battery in violation of subsection C of § 18.2-67.5, peeping or spying*
325 *into dwelling or enclosure in violation of § 18.2-130, consensual sexual intercourse with a child 15*
326 *years of age or older in violation of § 18.2-371, or indecent exposure of himself or procuring another to*
327 *expose himself in violation of § 18.2-387, and such conviction has a material adverse effect upon the*
328 *conduct of such office.*

329 B. The circuit court also shall proceed pursuant to § 24.2-235 for the removal of a member of a local
330 electoral board or general registrar upon a petition signed by a majority of the members of the State
331 Board of Elections as provided in § 24.2-103.

332 **§ 24.2-235. Removal by courts; procedure; who represents Commonwealth; appeals; costs.**

333 A. A petition for the removal of an officer shall state with reasonable accuracy and detail the grounds
334 or reasons for removal and shall be signed by the person or persons making it under penalties of
335 perjury. The circuit court shall not dismiss the petition solely because of an error or omission in the
336 form of the petition relating to its statement of the grounds or reasons for removal if such error or
337 omission is not material in determining whether the statement of the grounds or reasons for removal
338 provides a reasonable basis under ~~§ 24.2-233~~ § 24.2-234 to consider the removal of the officer.

339 B. As soon as the petition is filed with the court, the court shall issue a rule requiring the officer to
340 show cause why he should not be removed from office, the rule alleging in general terms the cause or
341 causes for such removal. The rule shall be returnable in not less than five nor more than ten days and
342 shall be served upon the officer with a copy of the petition. Upon return of the rule duly executed,
343 unless good cause is shown for a continuance or postponement to a later day in the term, the case shall
344 be tried on the day named in the rule and take precedence over all other cases on the docket. If upon
345 trial it is determined that the officer is subject to removal under the provisions of ~~§ 24.2-233~~ §
346 24.2-234, he shall be removed from office.

347 C. *The attorney for the Commonwealth shall represent the Commonwealth in any trial under this*
348 *section. If the proceeding is against the attorney for the Commonwealth, the court shall appoint an*
349 *attorney to represent the Commonwealth. Any officer proceeded against shall have the right to demand*
350 *a trial by jury. The Commonwealth and the defendant shall each have the right to appeal to the Court*
351 *of Appeals upon the record made in the trial court, and the Court of Appeals shall consider and*
352 *determine such cases.*

353 D. *If a judicial proceeding under this section is dismissed in favor of the respondent, the court in its*
354 *discretion may require the state agency or political subdivision that the respondent serves to pay court*
355 *costs or reasonable attorney fees, or both, for the respondent.*

356 **§ 24.2-236. Suspension from office pending hearing and appeal.**

357 In the event of a judicial proceeding under § 24.2-231, 24.2-232, ~~24.2-233~~, or 24.2-234, the circuit
358 court may enter an order suspending the officer pending the hearing. Any officer convicted of a felony
359 under the laws of any state or the United States shall be automatically suspended upon such conviction,
360 regardless of any appeals, pleadings, delays, or motions. The court may, in its discretion, continue the
361 suspension until the matter is finally disposed of in the Supreme Court or otherwise. During the
362 suspension the court may appoint some suitable person to act in the officer's place. The officer's
363 compensation shall be withheld and kept in a separate account and paid to him if and when the judicial
364 proceedings result in his favor. Otherwise, it shall be paid back to the county, city, town, or State
365 Treasurer who paid it.

366 **§ 24.2-682. Times for special elections.**

A. Notwithstanding any charter or special act to the contrary, the following provisions govern the times for holding special elections. Every special election shall be held on a Tuesday. No special election shall be held within the 55 days prior to a general or primary election. No special election shall be held on the same day as a primary election. A special election may be held on the same day as a general election.

B. A referendum election shall be ordered at least 81 days prior to the date for which the referendum election is called.

C. A special election to fill a vacancy in any constitutional office shall be held promptly and in accordance with the requirements of subsection A.

D. A recall election shall be ordered to be held on the date of the next general election in November following the certification of the recall election petition to the circuit court pursuant to § 24.2-233.2.

§ 24.2-688. Recall elections.

A. An officer shall be subject to a recall election only after (i) an application for recall election petition with the required number of official sponsors is filed with and found to be legally sufficient by the general registrar in accordance with § 24.2-233.1, (ii) a recall election petition with the required number of voter signatures is filed with and found to be legally sufficient by the general registrar in accordance with § 24.2-233.2, and (iii) such petition has been certified to the circuit court in whose jurisdiction the officer resides as legally sufficient.

B. Within five days of certification of the sufficiency of the recall election petition, the court shall order the election officials of the appropriate locality to conduct a recall election at the next general election in November. The general registrar for any locality in which the recall election is to be held shall cause a notice of the recall election to be published in a newspaper published or having a general circulation in the locality once a week for three successive weeks prior to such recall election and shall post a copy of such notice during the same time at the front door of the registrar's office and the courthouse serving the locality.

C. The ballots used in the recall election shall be printed as follows:

"Shall (name of officer), (name of office), be recalled and removed from public office on the grounds that said official has (state the grounds for recall as identified on the certified petition)?"

Yes []

No []"

The ballots shall be counted, returns made and canvassed as in other elections, and the results certified by the electoral board to the State Board, the clerk of the locality, and the circuit court, and the court shall enter of record the results of the recall election.

D. An officer subject to a recall election shall be removed from office if more than 50 percent of the votes cast in the recall election are affirmative for recall and removal. The office shall become vacant and the vacancy shall be filled in the manner provided by law. However, if 50 percent or less of the votes cast in the recall election are affirmative for recall and removal, the officer in question shall continue in office and shall not be subject to another recall election on the same grounds.

E. If the office in question is vacated prior to the holding of a recall election, no recall election shall be conducted.

§ 24.2-945.1. Definitions.

A. As used in this chapter, unless the context requires a different meaning:

"Authorization" means express approval or express consent by the candidate, the candidate's campaign committee, or an agent of the candidate or his campaign committee after coordination.

"Campaign committee" means the committee designated by a candidate to receive all contributions and make all expenditures for him or on his behalf in connection with his nomination or election.

"Candidate" means "candidate" as defined in § 24.2-101.

"Contribution" means money and services of any amount, in-kind contributions, and any other thing of value, given, advanced, loaned, or in any other way provided to a candidate, campaign committee, political committee, or person for the purpose of expressly advocating the election or defeat of a clearly identified candidate or to an inaugural committee for the purpose of defraying the costs of the inauguration of a Governor, Lieutenant Governor, or Attorney General. "Contribution" includes money, services, or things of value in any way provided by a candidate to his own campaign and the payment by the candidate of a filing fee for any party nomination method.

"Coordinated" or "coordination" refers to an expenditure that is made (i) at the express request or suggestion of a candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee or (ii) with material involvement of the candidate, a candidate's campaign committee, or an agent of the candidate or his campaign committee in devising the strategy, content, means of dissemination, or timing of the expenditure.

"Designated contribution" means a contribution that is designated specifically and in writing for a particular candidate or candidates and that is made using a political committee solely as a conduit.

428 "Expenditure" means money and services of any amount, and any other thing of value, paid, loaned,
429 provided, or in any other way disbursed by any candidate, campaign committee, political committee, or
430 person for the purpose of expressly advocating the election or defeat of a clearly identified candidate or
431 by any inaugural committee for the purpose of defraying the costs of the inauguration of a Governor,
432 Lieutenant Governor, or Attorney General.

433 "Federal political action committee" means any political action committee registered with the Federal
434 Election Commission that makes contributions to candidates or political committees registered in
435 Virginia.

436 "Inaugural committee" means any organization, person, or group of persons that anticipates receiving
437 contributions or making expenditures, from other than publicly appropriated funds, for the inauguration
438 of the Governor, Lieutenant Governor, or Attorney General and related activities.

439 "Independent expenditure" means an expenditure made by any person, candidate campaign
440 committee, or political committee that is not made to, controlled by, coordinated with, or made with the
441 authorization of a candidate, his campaign committee, or an agent of the candidate or his campaign
442 committee. "Independent expenditure" includes an expenditure made by a candidate campaign committee
443 (i) that is not related to the candidate's own campaign and (ii) that is not made to, controlled by,
444 coordinated with, or made with the authorization of a different candidate, his campaign committee, or an
445 agent of that candidate or his campaign committee.

446 "In-kind contribution" means the donation of goods, services, property, or other thing of value, other
447 than money, including an expenditure controlled by, coordinated with, or made upon the authorization of
448 a candidate, his campaign committee, or an agent of the candidate or his campaign committee, that is
449 provided for free or less than the usual and normal charge. The basis for arriving at the dollar value of
450 an in-kind contribution is as follows: new items are valued at retail value; used items are valued at fair
451 market value; and services rendered are valued at the actual cost of service per hour. Services shall not
452 be deemed to include personal services voluntarily rendered for which no compensation is asked or
453 given.

454 "Out-of-state political committee" means an entity covered by § 527 of the United States Internal
455 Revenue Code that is not registered as a political committee or candidate campaign committee in
456 Virginia and that does not have as its primary purpose expressly advocating the election or defeat of a
457 clearly identified candidate. The term shall not include a federal political action committee.

458 "Person" means any individual or corporation, partnership, business, labor organization, membership
459 organization, association, cooperative, or other like entity.

460 "Political action committee" means any organization, person, or group of persons, established or
461 maintained to receive and expend contributions for the primary purpose of expressly advocating the
462 election or defeat of a clearly identified candidate. The term shall not include a campaign committee,
463 federal political action committee, out-of-state political committee, political party committee, referendum
464 committee, or inaugural committee.

465 "Political committee" means and includes any political action committee, political party committee,
466 referendum committee, or inaugural committee. The term shall not include: (i) a federal political action
467 committee or out-of-state political committee; (ii) a campaign committee; (iii) a political party committee
468 exempted pursuant to § 24.2-950.1; or (iv) a person who receives no contributions from any source and
469 whose only expenditures are made solely from his own funds and are either contributions made by him
470 which are reportable by the recipient pursuant to this chapter or independent expenditures which are
471 reportable by him to the extent required by § 24.2-945.2, or a combination of such reportable
472 contributions and independent expenditures.

473 "Political party committee" means any state political party committee, congressional district political
474 party committee, county or city political party committee, other election district political party
475 committee, or organized political party group of elected officials. This definition is subject to the
476 provisions of § 24.2-950.1.

477 "Primary purpose" means that 50% or more of the committee's expenditures made in the form of
478 contributions shall be made to candidate campaign committees or political committees registered in
479 Virginia. Administrative expenditures and the transfer of funds between affiliated or connected
480 organizations shall not be considered in determining the committee's primary purpose. The primary
481 purpose of the committee shall not be determined on the basis of only one report or election cycle, but
482 over the entirety of the committee's registration.

483 "Referendum committee" means any organization, person, group of persons, or committee, that makes
484 expenditures in a calendar year in excess of (i) \$10,000 to advocate the passage or defeat of a statewide
485 referendum, (ii) \$5,000 to advocate the passage or defeat of a referendum being held in two or more
486 counties and cities, or (iii) \$1,000 to advocate the passage or defeat of a referendum held in a single
487 county or city.

488 "Residence" means "residence" or "resident" as defined in § 24.2-101.

489 "Statewide office" means the office of Governor, Lieutenant Governor, or Attorney General.

B. For the purpose of applying the filing and reporting requirements of this chapter, the terms "person" and "political committee," shall not include an organization holding tax-exempt status under § 501(c) (3), 501(c) (4), or 501(c) (6) of the United States Internal Revenue Code which, in providing information to voters, does not advocate or endorse the election or defeat of a particular candidate, group of candidates, or the candidates of a particular political party.

C. *For the purpose of applying the filing and reporting requirements of this chapter, the term "referendum committee" includes any organization, person, group of persons, or committee that seeks the removal of an elected officer or an officer appointed to an elected office through a recall election as provided by §§ 24.2-233, 24.2-233.1, and 24.2-233.2.*

2. That §§ 24.2-237 and 24.2-238 of the Code of Virginia are repealed.