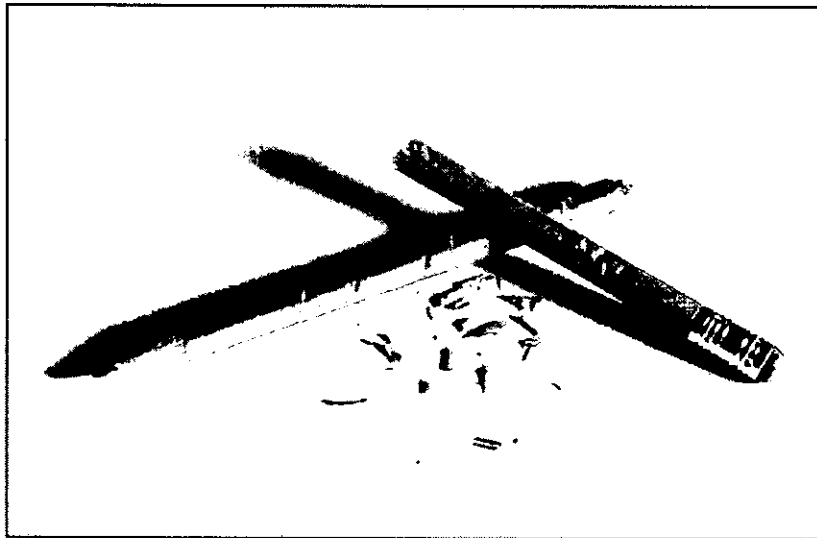


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VIRGIN ISLANDS
CODE
TITLE 18



ELECTIONS
HANDBOOK

TITLE 18 ELECTIONS

HISTORY

Short title. Act May 3, 1984, No. 4934, § 1, Sess. L. 1984, p. 107, provided: "This act [which amended sections 1, 4, 21, 41, 47, 96, 100, 102-109, 116, 151, 154, 196, 354, 357, 384, 420, 451, 471, 473, 491, 492, 557, 558, 581, 582, 584, 621, 622, 624-626, 629, 663, and 664-667 of this title, added sections 501-508, 521-524 of this title, and repealed sections 155, 156, 583, 622a and 623 of this title] may be cited as the Election Law Reform Act of 1984."

Source. Title 18 was added by section 1 of Act February 20, 1963, No. 936, which also repealed former Title 18 relating to the same subject. Former Title 18 was derived from Act Leg. Assem. app. Aug. 24, 1954 (Bill no. 86), and Act Leg. Assem. app. Jan. 14, 1955 (Bill no. 90); and, prior to repeal, was amended or affected by Acts May 16, 1957, No. 160, §§ 46-51, Sess. L. 1957, p. 36; June 2, 1959, No. 421, Sess. L. 1959, p. 25; June 16, 1960, No. 625, Sess. L. 1960, p. 150; March 15, 1962, No. 843, Sess. L. 1962, p. 81; Oct. 11, 1962, No. 919, Sess. L. 1962, p. 267.

The following acts, ordinances, and resolutions which dealt with elections were repealed or superseded by the provisions carried into former Title 18:

Former Municipality of St. Thomas and St. John. Res. Col. C. St. T. and St. J. app. Nov. 30, 1936; Ord. Mun. C. St. T. and St. J. app. June 3, 1938; Ord. Mun. C. St. T. and St. J. app. Dec. 20, 1938.

Former municipality of St. Croix. Ord. Mun. C. St. C. app. May 18, 1938 (Bill no. 69); Ord. Mun. C. St. C. app. Aug. 8, 1938 (Bill no. 107); Ord. Mun. C. St. C. app. Sept. 26, 1938 (Bill no. 116); Ord. Mun. C. St. C. app. Apr. 7, 1941 (Bill no. 19).

Legislative Assembly. Act Leg. Assem. app. Dec. 9, 1938; Act Leg. Assem. app. Dec. 27, 1939 (Bill no. 2); Act Leg. Assem. app. Dec. 2, 1941 (Bill no. 3); Act Leg. Assem. app. Dec. 28, 1943 (Bill no. 4); Act Leg. Assem. app. Dec. 21, 1945 (Bill no. 6); Act Leg. Assem. of June 5, 1948 (Bill no. 7).

Colonial Law of 1906. For Danish provisions relating to elections, prior to those cited in the note above, see Colonial Law of 1906 for the Danish West India Islands, set out preceding Title 1.

Virgin Islands Election Reform Commission - Study of Election Code. Act Dec. 6, 1972, No. 3353, provided:

"Section 1. There is created within the Office of the Governor the Virgin Islands Election Reform Commission consisting of seven members representative of the three political parties of the Virgin Islands. Four members of the Commission shall be appointed by the Governor and three members appointed by the President of the Legislature.

"Of the four members to be appointed by the Governor, two shall be residents of St. Croix, one shall be a resident of St. Thomas and one shall be a resident of St. John. Of the three members to be appointed by the President of the Legislature, two shall be residents of St. Thomas and one shall be a resident of St. Croix. The President of the Legislature shall designate the Chairman of the Commission.

"Section 2. The Chairman of each Board of Elections shall be ex-officio members of the Commission and the Supervisor of Elections shall also be an ex-officio member and secretary of the Commission.

"Section 3. The Commission shall conduct a comprehensive study of the Election Code, and all aspects of the electoral process, including, but not limited to:

"(1) a review of voting procedures for the purpose of determining methods and procedures to make voting easier and faster;

"(2) a review of the procedure for canvassing of ballots and for determining ways to provide an accurate and speedy canvass;

"(3) a study of the use of voting machines, computerized tabulation of ballots and modern election procedures as utilized in other United States jurisdictions; and

"(4) a review of the Virgin Islands Election Code with recommended revisions to implement other recommendations of the Commission for the overall improvement of the electoral process in the Virgin Islands.

"Section 4. The Commission shall have the authority to conduct public hearings and it shall have full access to all records of the Boards of Elections and the office of the Supervisor of Elections and such other departments and agencies of Government of the Virgin Islands as may be necessary to its study.

"Section 5. Commission members shall be reimbursed for all necessary expenses incurred while performing duties imposed by this Act. The Commission, through its Chairman, may employ the services of clerical, professional and technical personnel to carry out the purposes of this Act.

"Section 6. The Commission shall file interim reports from time to time with the Governor and the Legislature, and the Commission shall file its final written report together with findings and recommendations with the Governor and the Legislature no later than December 31, 1973.

"Section 7. There is hereby appropriated to the Office of the Governor the sum of \$10,000 out of any available funds in the Treasury of the Virgin Islands for the fiscal year ending June 30, 1973, to remain available until expended to be used by the Commission for the purposes of this Act."

Reapportionment of legislature; provisional repeal of certain laws. Act Feb. 15, 1967, No. 1850, Sess. L. 1967, p. 15-19, provided:

"Section 1 [Findings and declaration; requests to Governor]. The Legislature of the Virgin Islands hereby finds and declares that section 5(b) of the Revised Organic Act of the Virgin Islands (48 U.S.C. § 1571(b); July 22, 1954, ch. 558, § 5, 68 Stat. 498; as amended August 30, 1966, P.L. 89-548, § 1, 80 Stat. 371 [set out preceding Title 1]) provides that 'the apportionment of the Legislature shall be as provided by the laws of the Virgin Islands.' Section 5(b) further provides that 'such apportionment shall not deny to any person in the Virgin Islands the equal protection of the law,' and such equal protection is also guaranteed every person in the Virgin Islands by section 3 of said Revised Organic Act (48 U.S.C. § 1561; July 22, 1954, ch. 558, § 3, 68 Stat. 497; as amended August 28, 1958, P.L. 85-851, § 1, 72 Stat. 1094) and by Amendment V (ratified December 15, 1791) of the Constitution of the United States of America. As made abundantly clear by the text and by the legislative history of said section 5(b), the purpose of the equal protection provisions in the context of the reapportionment of the Legislature is to require compliance 'with the recent U.S. Supreme Court decisions enunciating the "one man, one vote" principle.' (Senate Report No. 1407, 89th Congress, 2d Session.) Said section 5(b) additionally provides that 'every voter in any district election or at-large election shall be permitted to vote for the whole number of persons to be elected in that district election or at-large election as the case may be.'

"The Legislature of the Virgin Islands finds and declares further that, to insure the effective and impartial response of the people of the Virgin Islands to the obligation incumbent upon them to apportion their Legislature in such manner as to guarantee equal and equitable representation

in their law making body, consistent with the provisions of the Constitution of the United States of America and of the Revised Organic Act of the Virgin Islands, referred to above, it is necessary to establish an independent commission to prepare a specific recommended plan of apportionment of the Legislature of the Virgin Islands. The recommended plan shall become law upon adoption by the legislature and the approval of the Governor. (Compare: Article VI, sections 3, 8, and 10 of the Constitution of Alaska; Article IV, section 4.04 of the Model State Constitution, Sixth Edition, National Municipal League, 1963.)

"The Legislature of the Virgin Islands also finds and declares that subsection (a) of section 16, Revised Organic Act of the Virgin Islands (48 U.S.C. § 1597(a); July 22, 1954, ch. 558, § 16, 68 Stat. 504; as amended September 16, 1959, P.L. 86-289, § 3, 73 Stat. 569), requires the prior approval of the Secretary of the United States Department of the Interior of any new instrumentality of the Government of the Virgin Islands, including any commission, which is created, organized, or established by the Governor of the Legislature following the reorganization and consolidation of the instrumentalities of the Government pursuant to the provisions of said subsection (a).

"The Legislature of the Virgin Islands finally finds and declares that in many jurisdictions legislative bodies have refused, neglected or otherwise failed to meet the obligation to reapportion their membership, even when such obligation is imposed by Constitution. In order to encourage compliance with the obligation to reapportion in accordance with the recommended plan of the Commission created by this Act, there is hereinafter set forth as part of this Act a provision which repeals all sections in the election code of the Virgin Islands (Title 18 of the Virgin Islands Code) which refer to the existing legislative districts.

"In order that the election officers might properly and effectively administer the election laws of the Virgin Islands, including any new apportionment plan, the Legislature requests the Governor of the Virgin Islands to seek the prompt approval of the establishment of the Commission, established by this Act, by the Secretary of the United States Department of the Interior, and the Legislature also requests the Governor to call a special session of the Legislature within thirty days after the Commission submits its recommended plan to the Legislature and to the Governor for the purpose of acting upon the aforesaid plan.

"Section 2 [Commission on Reapportionment; composition; Chairman, Vice Chairman, and Secretary]. Subject to the approval of the Secretary of the United States Department of the Interior, as required by law, and effective on the date of such approval, there is established a Commission on the Reapportionment of the Legislature of the Virgin Islands, to be composed of fifteen members elected by the Legislature of the Virgin Islands, at least two from St. John and at least six from the present District of St. Thomas and St. Croix. The Legislature shall also elect a Chairman, a Vice Chairman, and a Secretary of the Commission.

"Section 3 [Recommended plan of reapportionment; submission; acceptance, return or rejection by Legislature; requirements]. The Commission is hereby authorized to prepare a recommended plan of apportionment of the Legislature of the Virgin Islands. Its recommended plan shall be submitted to the Legislature and to the Governor no later than six months following the date on which the establishment of the Commission is approved by the Secretary of the United States Department of the Interior, and it shall become law upon the acceptance by the Legislature and the approval of the Governor. The Legislature may accept the proposal, may return it to the Commission for further deliberation, or may reject it. The Commission shall remain operative until its recommended plan either becomes law or is rejected. The plan of apportionment recommended by the Commission shall meet the requirements of the pertinent provisions of the Constitution of the United States of America, of the Revised Organic Act of the Virgin Islands, and of all other governing laws, and no plan of apportionment recommended by the Commission may provide for the election of all the fifteen seats of the Legislature of the Virgin Islands on an at-large basis. In order to effectuate the guarantee to every resident of the Virgin Islands of equal protection of the laws, the Commission shall, in addition to other functions, conduct a study of the population of the Virgin Islands, of the number of United States citizens who are legal residents of

the Virgin Islands, of the number of registered voters, of the number of persons qualified to vote, both registered and not registered, and of the number of persons who voted at the general election of 1966. Every instrumentality of the Government of the Virgin Islands is directed to provide the Commission promptly with such information as it may request.

"Section 4 [Decisions and determinations of Commission]. All decisions and determinations of the Commission shall be approved by three-fifths of the members of the Constitution.

"Section 5 [Personnel of Commission; supplies, contracts for services; hearings]. The Chairman of the Commission is authorized to engage such staff, professional and clerical, to purchase such supplies, to contract for such technical and research services, and to schedule such public hearings as may be necessary to promote effectively the accomplishment of the work of the Commission; Provided, That the Commission shall hold at least two public hearings in each of the existing Legislative Districts.

"Section 6 [Allowances and travel expenses]. Each member of the Commission shall receive an allowance of \$20 per day, for each day or fraction thereof in attendance at any meeting of the Commission; Provided, That no member shall receive no more than a total of \$300 as a result of this per diem provision. Additionally, each member of the Commission and each member of the staff who attends any meeting away from the island of residence, or who travels on the official business of the Commission authorized by the Chairman, shall receive all reasonable and necessary travel expenses plus a per diem in lieu of subsistence of \$30 for each day or fraction thereof.

"Section 7 [Appropriation and expenditures]. There is hereby appropriated to the Office of the Legislature of the Virgin Islands the sum of \$35,000 from the General Fund of the Treasury of the Virgin Islands for fiscal year July 1, 1966, through June 30, 1967, to carry out the provisions of this Act. These monies shall remain available so long as the Commission remains operative, unless sooner expended. Expenditures shall be made on request by the Chairman of the Commission according to regular Government practices, and an accounting of all expenditures shall be made by the Office of the Legislature.

"Section 8 [Provisional repeal of certain laws]. Effective as of the date on which the Commission submits its recommended plan of apportionment to the Legislature and the Governor, every provision of chapters 1, 3, 5, 7, and 9 of Title 18 Virgin Islands Code, which refers to the legislative districts of St. Thomas, St. Croix, and St. John and every other provision of said Title 18 which refers to said legislative districts, is hereby repealed. If the Legislature rejects a plan submitted by the Commission, then the provisions referred to above in this section shall be deemed reenacted and shall govern the nomination and election of the members to the Eighth Legislature of the Virgin Islands in the year 1968."

According to information received from the United States Department of the Interior and the Acting Executive Secretary of the Legislature, by letter to the Governor of the Virgin Islands dated March 16, 1967, the Secretary of the Interior approved the establishment of the Commission provided for by Act No. 1850; and according to additional information received, the members of the Commission on Reapportionment, so established, were chosen by the Legislature on February 6, 1967, and approved by the Governor on February 16, 1967. Information was also received that it was expected that the Commission on Reapportionment would submit its recommended plan of reapportionment to the Legislature by January 1968, which is the extended date granted by the Legislature [actually, "no later than January 9, 1968"] by Act Sept. 18, 1967, No. 2054, set out below.

Act Sept. 18, 1967, No. 2054, Sess. L. 1967, p. 446, provided:

"Section 1. Notwithstanding the provisions of section 3 of Act No. 1850 (Bill No. 3092), Seventh Legislature, Regular Session 1967 [quoted above], to the contrary, the Commission on

the Reapportionment of the Legislature of the Virgin Islands shall submit its recommended plan of apportionment to the Legislature and to the Governor no later than January 9, 1968.

"Section 2. There is hereby appropriated to the Office of the Legislature of the Virgin Islands the sum of \$50,000.00 from the General Fund of the Treasury of the Virgin Islands for fiscal year July 1, 1967, through June 30, 1968, to carry put the provisions of Act No. 1850 (Bill No. 3092), Seventh Legislature, Regular Session 1967. These monies shall remain available so long as the Commission on the Reapportionment of the Legislature of the Virgin Islands remains operative, unless sooner expended."

Virgin Islands Election Reform Commission - Study of Election Code. Act Dec. 6, 1972, No. 3353, as amended by Dec. 27, 1973, No. 3509, Sess. L. 1973, p. 303, provided:

"Section 1. There is created within the Office of the Governor the Virgin Islands Election Reform Commission consisting of seven members representative of the three political parties of the Virgin Islands. Four members of the Commission shall be appointed by the Governor and three members appointed by the President of the Legislature.

"Of the four members to be appointed by the Governor, two shall be residents of St. Croix, one shall be a resident of St. Thomas and one shall be a resident of St. John. Of the three members to be appointed by the President of the Legislature, two shall be residents of St. Thomas and one shall be a resident of St. Croix. The President of the Legislature shall designate the Chairman of the Commission.

"Section 2. The Chairman of each Board of Elections shall be ex-officio members of the Commission and the Supervisor of Elections shall also be an ex-officio member and secretary of the Commission.

"Section 3. The Commission shall conduct a comprehensive study of the Election Code, and all aspects of the electoral process, including, but not limited to:

"(1) a review of voting procedures for the purpose of determining methods and procedures to make voting easier and faster;

"(2) a review of the procedure for canvassing of ballots and for determining ways to provide an accurate and speedy canvass;

"(3) a study of the use of voting machines, computerized tabulation of ballots and modern election procedures as utilized in other United States jurisdictions; and

"(4) a review of the Virgin Islands Election code with recommended revisions to implement other recommendations of the Commission for the overall improvement of the electoral process in the Virgin Islands.

"Section 4. The Commission shall have the authority to conduct public hearings and it shall have full access to all records of the Boards of Elections and the office of the Supervisor of Elections and such other departments and agencies of the Government of the Virgin Islands as may be necessary to its study.

"Section 5. Commission members shall be reimbursed for all necessary expenses incurred while performing duties imposed by this Act. The Commission, through its Chairman, may employ the services of clerical, professional and technical personnel to carry out the purposes of this Act.

"Section 6. The Commission shall file interim reports from time to time with the Governor and the Legislature, and the Commission shall file its final written report together with findings and recommendations with the Governor and the Legislature no later than March 15, 1974.

"Section 7. There is hereby appropriated to the Office of the Governor the sum of \$10,000 out of any available funds in the Treasury of the Virgin Islands for the fiscal year ending June 30,

1973, to remain available until expended to be used by the Commission for the purposes of this Act."

CROSS REFERENCES

Popular election of Governor and Lieutenant Governor, see Rev. Org. Act 1954, § 11.

ANNOTATIONS

Cited. Cited in *Democratic Party v. Board of Elections*, 22 V.I. 465, 649 F. Supp. 1549 (D.C.V.I. 1986).

CHAPTER ANALYSIS

1. General Provisions
 2. Virgin Islands Delegate to United States House of Representatives
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 7. Election Officers
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 11. Dates of Elections and Primaries
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 15. *Organization of Political Parties*
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Chapter 1. General Provisions

SECTION ANALYSIS

1. Definitions.
2. Eligibility of government personnel for public office.
3. Election days as legal holidays; time off to vote; acts done on Sundays or other legal holidays.
4. Powers, duties and functions of Supervisor of Elections.
5. Publication of notices.
6. Amendment during election year.
7. Prohibition of dual candidacies.

§ 1. Definitions

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

"ballot" or "official ballot" means the instrument upon which the voter's choices are recorded. A ballot or official ballot may contain ballot information.

"ballot information" means the material containing the names of offices and candidates and the questions to be voted on;

"candidate" includes a candidate for nomination and a candidate for election;

"candidate at large" means a candidate for nomination of election to a position which is elected by the qualified electors of the Virgin Islands from the Virgin Islands as a whole;

"district" means an election district of the Virgin Islands;

"district court" means the District Court of the Virgin Islands;

"district office" means any elective office for which only the electors of a particular election district may vote;

"district register" means the cards containing all or any part of the registry list of qualified electors of the same polling district in accordance with the provisions of this title; and it includes any subdivision thereof prepared as provided by subsection (b) of section 105 of this title;

"election" means any general or primary election, unless otherwise specified or indicated as in the term "primaries and elections" where the intention is to refer to primary elections and general elections;

"election board" and "board" mean the board of elections of any election district;

"election officers" means the election officers required to conduct primaries and elections at any polling place in accordance with the provisions of this title;

"enrolled member of a political party" means any qualified elector who shall be registered and enrolled according to political designation, in accordance with the provisions of this title;

"general election" means the election which the law requires to be held in even-numbered years;

"general register" means the cards containing the registry list of the qualified electors of an entire election district in accordance with the provisions of this title; -

"independent nomination" means the selection by an independent political body or group of electors, in accordance with the provisions of this title, of a candidate for a public office authorized to be voted for at an election;

"nomination" means the selection, in accordance with the provisions of this title, of a candidate for public office authorized to be voted for at an election;

"party" or "political party" means a political party as defined in section 301 of this title;

"party nomination" means the selection by a political party, in accordance with the provisions of this title, of a candidate for a public office authorized to be voted for at an election;

"political body" means an independent body of electors, as defined in section 301(b) of this title;

"polling place" means the place provided for a polling district for voting at a primary or election;

"primary" or "primary election" means any election held for the purpose of electing party officers and nominating party candidates for public offices to be voted for at an election;

"public office" includes every public office, including both district and territorial offices, to which persons can be elected by a vote of the electors under the laws of the Virgin Islands or laws applicable to the Virgin Islands;

"qualified elector or voter" means any person who meets every qualification for voting now or hereafter prescribed by the laws of the Virgin Islands or applicable to the Virgin Islands, or who, being otherwise qualified by continuing residence in his election district, will meet such qualifications before the next ensuing elections; and

"territorial office" means any elective office for which all the electors in the Virgin Islands may vote.

"voting machine" means the voting apparatus or system approved by the Joint Boards of Elections for use in primary, special and general elections in the United States Virgin Islands.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(1)-(4); June 26, 1968, No. 2253, § 2(a), Sess. L. 1968, Pt. II, p. 73; Feb. 12, 1969, No. 2419, § 1, Sess. L. 1969, p. 64; May 3, 1984, No. 4934, § 2(a)(1), (2), Sess. L. 1984, p. 107; Oct. 21, 1988, No. 5367, § 1, Sess. L. 1988, p. 252.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, §§ 951-2, 2602.

Amendments-1988. Rewrote the definition of "ballot" and added the definition of "voting machine".

-1984. Added the definitions of "ballot" and "ballot information" and inserted "or voter" following "elector" in the definition of "qualified elector or voter".

-1969. Rephrased definition of "independent nomination", and changed reference from "301(i)" to "301(b)" in definition of "political body".

-1968. Amended certain definitions generally and substituted "election district" for "legislative district" wherever it appeared.

-1963. Inserted definition of candidate at large; in definition of district register, added provision relating to subdivision; amended definition of election generally; and, in definition of public office, inserted provision including both district and territorial offices.

Effective date of amendments-1988. Act Oct. 21, 1988, No. 5367, § 8(a), Sess. L. 1988, p. 254, provided that notwithstanding section 6 of this title, prohibiting amendments to this title 6 months preceding the date of a general election, section 1 of the act, which amended this section, was to take effect upon enactment, Oct. 21, 1988.

-1968. Section 3 of Act June 26, 1968, provided: "The provisions of this Act [amending this section and sections 191-194, 301, 302, 347, 411, 471, and 492 of this title] shall become effective upon approval by the Governor."

The Governor signed Act No. 2253 on June 26, 1968.

CROSS REFERENCES

For provisions of the Organic Act relating to election districts, see section 5(b) of the Revised Organic Act of the Virgin Islands, app. July 22, 1954 (48 U.S.C. § 1571(b)), set out preceding Title 1.

§ 2. Eligibility of government personnel for public office

Persons employed in the legislative, executive or judicial branches of the Government of the United States Virgin Islands shall be eligible for nomination as candidates for public office, but any such person who becomes a candidate shall be granted and shall take a leave of absence from his governmental duties from the date of filing of his nomination petition or nomination paper until the date of the ensuing general election unless, if he is a candidate at the primary election, he fails to be nominated thereat, in which case his leave of absence may terminate immediately after such primary. Persons becoming candidates may use accrued or accumulated annual leave or sick leave in taking such leave of absence, however, sick leave may not be used in the absence of such certification of sickness as is required by the Government pursuant to Title 3, section 583, subsection (b) of the Code. Persons taking such leave of absence who have no accrued or accumulated annual leave shall do so without pay but without prejudice to seniority or other employment rights. This section shall not apply to Government employees becoming candidates for party offices or serving as party officers, to candidates for the Virgin Islands Board of Education, as provided for under section 97 of Title 3 of the Virgin Islands Code, or candidates for the Board of Elections for the Virgin Islands, as provided for under section 41 of Title 18 of such Code, except that no employee or official of the Department of Education and no employee of the Board of Education may be a candidate for the Board of Education and no employee or official of the office of the Supervisor of Elections and no employee of a board of election may be a candidate for a

board of elections without taking leave as required by this section; and if elected may not serve as an employee or official, as the case may be during his incumbency.

(Added Feb. 20, 1963, No. 936, § 1; amended July 18, 1968, No. 2300, § 1, Sess. L. 1968, Pt. II, p. 261; Nov. 15, 1971, No. 3136, Sess. L. 1971, p. 374; Feb. 8, 1973, No. 3378.)

HISTORY

Source. Former Title 18 V.I.C. § 121 (part), as amended by Act May 16, 1957, No. 160, § 50, Sess. L. 1957, p. 20.

Revision note. Inserted "United States" preceding "Virgin Islands" in the first sentence.

Amendments-1973. In second sentence, inserted reference to use of sick leave pertaining to leave of absence.

-1971. Added provisions relating to use of accrued leave and exemptions relating to candidates for Boards of Education or Elections and persons becoming or serving as party officers.

-1968. Added proviso at end.

ANNOTATIONS

Analysis

1. Hatch Act.
2. Leave of absence.

1. HATCH ACT.

When examining the political activities of Virgin Islands Employment Security Agency employees, the federal Hatch Act and the Virgin Islands provision imposing specific limitations on political activities by such employees should be read together., 10 V.I.Op.A.G. 23.

An individual employed in the executive branch of the Territory, whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a federal agency, may not be a candidate for partisan elective office or be a candidate in a partisan election for a non-partisan elective office., 10 V.I.Op.A.G. 23.

An employee subject to the Hatch Act is not prohibited from taking an active part in strictly non-political contests, i.e., those in which no candidate representing a political party participates., 10 V.I.Op.A.G. 23.

If Territorial law provides for a non-partisan ballot for a particular local office, or provides that the office is considered non-partisan, a presumption arises that the election for that office is exempt from the provisions of the Hatch Act; this presumption may be rebutted, however, by evidence of partisan politics actually entering the campaigns of any of the candidates., 10 V.I.Op.A.G. 23.

Employee of Virgin Islands Employment Security Agency whose employment is federally funded violates the Hatch Act by being a candidate for election to a position on the Board of

Elections, since the campaign for election to the board of elections is a partisan political activity., 10 V.I.Op.A.G. 23.

Mere membership on a board of elections by an employee of the Virgin Islands Employment Security Agency would not violate local or federal law., 10 V.I.Op.A.G. 23.

Where employee of Virgin Islands Employment Security Agency violated federal and local law by becoming a candidate for the Board of Elections, it was recommended that employee be offered the options of withdrawing from prohibited political activity, requesting an immediate leave of absence, or resigning from employment; if the employee fails or refuses to pursue one of these options, termination was recommended., 10 V.I.Op.A.G. 23.

Employees covered by the Hatch Act may participate in political management or campaigns in connection with elections not specifically identified with national or state issues or parties., 1 V.I.Op.A.G. 298.

2. LEAVE OF ABSENCE.

Statute requiring that candidates for public office must take leave from government employment until the election does not apply to the Virgin Islands Water and Power Authority., 10 V.I.Op.A.G. 19, 10 V.I.Op.A.G. 17.

While a non-Government (local or federal) employee may not generally be deprived of his right to seek public office by his employer, the employer is also entitled to an employee's full-time devotion to his employment; the right to seek public office is a protected right to the extent there is no interference with the employee's performance on the job., 10 V.I.Op.A.G. 19.

Since the Water and Power Authority (WAPA) is not subject to the personnel merit system except in limited circumstances, the discretion to grant its employees annual leave or sick leave is a matter of WAPA policy., 10 V.I.Op.A.G. 17.

Candidate for elective public office should take leave of absence from his position as a Government Employee Service Commission member during his candidacy., 7 V.I.Op.A.G. 370.

A government employee may make use of accrued sick leave if ill while on leave during campaign for office., 7 V.I.Op.A.G. 164.

Government employees may exchange annual leave for sick leave if they fall sick while on vacation., 7 V.I.Op.A.G. 164.

A leave of absence may be granted to a public employee for the period during which he is a candidate for public office, but not for the period of service in office., 7 V.I.Op.A.G. 107.

Government employees seeking public office and thus required to take a leave of absence may not use accumulated sick leave., 7 V.I.Op.A.G. 55.

§ 3. Election days as legal holidays; time off to vote; acts done on Sundays or other legal holidays

(a) The days on which primaries and elections are held shall be legal holidays in the Virgin Islands. All employees who are required to work on those days shall be entitled to two hours off from their jobs without loss of pay to vote in all primaries and elections, provided that they notify their employers before such primaries or elections of their intention to be absent for the purpose of voting.

(b) No part of any day fixed for the performance of any duties by any person or official under this title shall be deemed a Sunday or other legal holiday so as to affect the legality of any work done for the purpose of carrying out the provisions of this title, or the right of any person to any compensation herein provided for rendering any service required hereby, or so as to relieve any person from doing on such day whatever is necessary for such purposes, and such services are hereby declared to be necessary public services.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Subsection (a): Former Title 18 V.I.C. § 351. Subsection (b): Purdon's Penn. Statutes, Title 25, §§ 951-11, 2604.

ANNOTATIONS

1. REFERENDUM.

Date of territorial referendum for the purpose of determining voter approval or disapproval of proposed Constitution was to be considered a legal holiday., 9 V.I.Op.A.G. 2

§ 4. Powers, duties and functions of Supervisor of Elections

(a) There is hereby created and established the Office of Supervisor of Elections. There shall be a Supervisor of Elections, a Deputy Supervisor for St. Croix, and a Deputy Supervisor of St. Thomas-St. John. The Supervisor and Deputy Supervisors shall be appointed by the Joint Boards of Elections for a term of eight years and shall otherwise serve at the pleasure of the Joint Boards. Appointment of the Deputy Supervisors shall be on the recommendation of the Supervisor to the Joint Boards. The Deputy Supervisors shall be accountable to the Supervisor. The Supervisor of Elections and the two Deputy Supervisors shall be subject to removal by the Joint Boards but only for cause and after notice and an opportunity to be heard. The Supervisor and Deputy Supervisors shall be entitled to appeal an adverse ruling of the Joint Boards to the Territorial Court. The Territorial Court may review the matter to affirm or deny the petition on the basis of whether the allegations of cause are supported by sufficient facts and evidence. In cases where the Supervisor or a Deputy Supervisor prevails, he may recover attorney's fees and other reasonable costs as determined by the Court.

The salaries of the Supervisor and the two deputies shall be set by the Joint Boards of Elections, which salaries shall be fixed in the annual budget. Subject to appropriations made in the annual budget and the approval of the Joint Boards of Elections, the Supervisor may employ such other personnel as he may deem necessary, and such other personnel shall be classified in the career service established pursuant to the provisions of Title 3, chapter 25 of the Virgin Islands Code. The Joint Boards shall be the policy-making body of the Virgin Islands Elections System and shall exercise supervisory control through the Supervisor of Elections who shall be responsible for executing the

mandates of the Joint Boards. All employees of the election system shall be responsible to the Joint Boards of Elections through the Supervisor of Elections. No employees of the election system shall report to or take instructions from the Joint Boards of Elections, except through the Supervisor of Elections.

(b) The Supervisor of Elections, subject to the direction, control and supervision of the boards of elections, shall exercise all powers granted to, and perform all duties vested in him by this title, including the duty to:

(1) determine, in accordance with the provisions of this title, the forms of nomination petitions and papers, expense accounts and all other forms and records, the forms of which he is required to determine under the provisions of this title, and furnish or make them available in the manner provided by this title;

(2) certify to the boards of elections, for primaries and elections, the names of candidates for all public and territorial offices and membership on party committees;

(3) receive, and determine, as provided in this title, the sufficiency of nomination petitions, certificates and papers of candidates for all public and territorial offices and membership on party committees;

(4) receive from the Deputies of each election district the reports of the results of primaries and elections in their respective districts, determine which candidates have been nominated or elected at large, and notify such candidates of their nomination or election, as provided in this title;

(5) prepare and furnish to the boards of elections the cards and binders for the registration of electors, the voter's certificates and all other papers, supplies and equipment necessary for the registration of electors and for the conduct and determination of the results of primaries and elections; and, after consultation with the boards and with the approval of the boards, prepare and furnish the format of the ballot as it will appear on the electronic voting machine, sample ballots and instructions for voters to be used at primaries and elections;

(6) prepare, receive applications for, and distribute, in the manner provided by this title, absentee ballots and envelopes;

(7) assist and advise the boards of elections in the preparation and issuance of such rules and regulations, not inconsistent with law, as the boards of elections deem necessary for the guidance of the boards of elections and election officers, and their employees and assistants in the conduct of registration, enrollment, primaries and elections to the end that the administration of the election process shall be uniform throughout the Virgin Islands;

(8) prepare for the review and approval of the joint boards the annual budget for the boards;

(9) prepare and publish at least twice in all local newspapers of general circulation in the Virgin Islands prior to June 15 of each election year a calendar of election year events listing all pertinent dates and filing deadlines contained in this title; and

(10) prepare and distribute to each candidate certified pursuant to section 420 of this title, at least 15 days prior to each general election, a list of the qualified electors of each district for which the candidate is seeking office, which list shall be organized by polling districts and voting precincts within those districts. At large candidates shall receive a complete list of all qualified electors, organized in the manner above set forth.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(41); April 2, 1964, No. 1163, §§ 1, 2, Sess. L. 1964, p. 164, 165; July 17, 1967, No. 2035, § 1, Sess. L. 1967, p. 411, 412; June 26, 1968, No. 2252, § 10, Sess. L. 1968, Pt. II, p. 71; April 7, 1970, No. 2689, § 1, Sess. L. 1970, p. 64; April 26, 1972, No. 3212, §§ 1-5, Sess. L. 1972, p. 71; April 26, 1972, No. 3215, § 1, Sess. L. 1972, p. 76; July 3, 1972, No. 3228, § 8, Sess. L. 1972, p. 144; Nov. 6, 1975, No. 3764, § 1, Sess. L. 1975, p. 187; May 3, 1984, No. 4934, § 2(b)-(h), Sess. L. 1984, p. 107.)

HISTORY

Codification. Subdivision (b)(12) has been redesignated as subdivision (11) to conform with Code style.

Amendments-1984. Amended section generally.

-1975. Subsection (a): Amended last sentence to provide that "subject to appropriations made in the annual budget" the supervisor may employ certain personnel which shall be classified into the classified service.

-1972. Subsection (b): Act No. 3212 inserted the words "subject to the direction, control and supervision of the boards of elections".

Subdivision (b)(7): Act No. 3228 substituted "absentee ballots" for "armed forces absentee ballots".

Subdivision (b)(8): Deleted by Act No. 3212.

Subdivisions (b)(9)-(b)(11): Redesignated as subdivisions (8)-(10) respectively by Act No. 3212.

Subdivision (b)(12): Added by Act April 26, 1972, No. 3215, § 1. This subdivision was added without reference to Act No. 3212 which redesignated former subdivision (b)(11) as (b)(10). Subdivision (b)(12) renumbered as subdivision (b)(11). See codification note set out above.

-1970. Subdivision (b)(11): Added.

-1968. Subsection (a): Amended last sentence generally.

-1967. Subsection (a): Amended generally.

-1964. Subsection (b): In subdivision (8), added provision for supervisory powers over boards of elections; in (9), added provision for regulation of registration and enrollment and added words "to the end that the administration of the election process shall be uniform throughout the Virgin Islands", and added new (10).

-1963. Subsection (a) was amended by paragraph 41 of section 1 of the amending act which provided:

"(41) The fourth sentence of subsection (a) of section 4 of such title is amended to read as follows:

"The Supervisor of Elections shall receive such salary as shall be fixed in the annual budget."

It would appear that the reference should have been to the third, rather than the fourth, sentence, since the third sentence related to salary of the Supervisor (providing a salary of \$8,500 per annum). Leaving the third sentence unchanged and substituting the new sentence for the

existing fourth sentence would have the effect of placing contradictory provisions relating to salary into this subsection. To correct the apparent typographical error, the amendment is treated as applying to the third sentence.

Effective date of amendments-1975. Act Nov. 6, 1975, § 4, provided: "The effective date of this Act shall be 60 days following its approval by the Governor [approved Nov. 6, 1975.]"

-1972. Section 12 of Act April 26, 1972, provided: "The effective date of this Act shall be January 8, 1973."

Exemptions. Act Nov. 6, 1975, No. 3764, § 3, Sess. L. 1975, p. 188, provided: "Notwithstanding any other provision of law, no person affected by the provisions of this Act [which amended subsection (a) of this section and section 45(a) of this title] shall receive a reduction in compensation by reason of his coverage into the career service. Such affected persons presently employed shall be granted classified service status under the provisions of Title 3, chapter 25 of the Virgin Islands Code without further competitive examination, provided that they have completed at least one year of satisfactory service in their present position."

Rules and regulations relating to write-in candidates. Act May 3, 1984, No. 4934, § 19, Sess. L. 1984, p. 133, provided: "Notwithstanding any other provision of law, the Supervisor of Elections shall devise rules and regulations subject to the approval of the Joint Boards of Elections on the policy and procedure to be utilized for write-in or paste-in candidates."

ANNOTATIONS

Analysis

1. Construction.
2. Status of supervisor.

1. CONSTRUCTION.

Word "shall" in election statutes was not clear manifestation of legislative mandatory intent, such that violations of Virgin Islands election laws that Senator alleged warranted new election, since statutes did not go to election's merits, were intended merely to regulate election's conduct, did not provide that failure to adhere rendered election void, and none of election's irregularities resulted from fraud. *Bryan v. Todman*, 28 V.I. 42 (Terr. Ct. St. C. 1992).

2. STATUS OF SUPERVISOR.

Supervisor of Elections is subordinate to the Joint Boards of Elections for purposes of adopting rules and regulations, and is subordinate to the District Board of Elections for all other purposes., 7 V.I.Op.A.G. 231.

§ 5. Publication of notices

Notwithstanding any other provision of this title, all public notices required by the provisions of this title shall be published in all local newspapers of general circulation in the Virgin Islands.

(Added April 7, 1970, No. 2689, § 6, Sess. L. 1970, p. 65.)

§ 6. Amendment during election year

No amendments to this title shall be enacted by the Legislature in the period of six (6) months immediately preceding the date of a general election except in compliance with an order issued by a court of competent jurisdiction.
(Added March 27, 1974, No. 3544, § 1, Sess. L. 1974, p. 58.)

HISTORY

Applicability of provisions of this section to amendments to this title by Act No. 5367. Act Oct. 21, 1988, No. 5367, § 8(a), Sess. L. 1988, p. 254, provided that notwithstanding the provisions of this section, the section of the act which amended sections 1, 41, 151, 153, 158, 555, 558 and 663 of this title would take effect upon enactment, Oct. 21, 1988.

§ 7. Prohibition of dual candidacies

In any general, primary, or special election, no person's name may appear on a ballot as candidate for more than one (1) of the following offices:

- (1) Governor;
- (2) Lieutenant Governor;
- (3) Delegate to Congress;
- (4) Senator;
- (5) Board of Education; and
- (6) Board of Elections.

(Added May 12, 1986, No. 5157, § 1(a)(i), Sess. L. 1986, p. 44.)

HISTORY

Revision note. Deleted subsection designation "(a)" preceding the introductory paragraph for purposes of conformity with V.I.C. style pursuant to section 14 of Title 1.

Chapter 2. Virgin Islands Delegate to United States House of Representatives

HISTORY

Repeal and reenactment of chapter 2. Act July 17, 1972, No. 3261, Sess. L. 1972, p. 193, repealed former chapter 2 which contained provisions relating to Washington Representative of the People of the Virgin Islands and enacted a new chapter 2. Therefore the former chapter and section numbers of former chapter 2 are obsolete.

Former sections 21-25 were added by Act June 28, 1968, No. 2257, § 1, Sess. L. 1968, Pt. II, p. 95.

Prior to repeal section 23 was amended by Act Feb. 19, 1971, No. 2945, Sess. L. 1971, p. 8.

SECTION ANALYSIS

21. Local provisions for Federal Act.

§ 21. Local provisions for Federal Act

In order to carry out the provisions of P.L. 92-271, 92nd Congress (approved April 10, 1972), providing for a nonvoting Virgin Islands Delegate to the United States House of Representatives, the following subsection shall govern the administration of such Federal Act:

(a) Candidates for the office of Delegate to the House of Representatives shall be nominated pursuant to the pertinent provisions of this title.

(b) After review and approval by the Joint Boards of Elections, the Supervisor of Elections shall cause to be entered on the Official Ballot a separate ballot containing the names of candidates for the office of Delegate to the House of Representatives which shall be contained in the electronic voting machines. Such names shall appear in an order thereon as determined by lot. The ballot shall conform to the requirements regarding its form and content as prescribed by this title.

(c) If no candidate for the office of Delegate to the House of Representatives receives a majority of the votes cast in any election, the runoff election required by § 2(a), 86 Stat. 119, P.L. 92-271, 92nd Congress shall be conducted and administered by the Supervisor of Elections in the same manner as runoff elections for the office of Governor.

(d) In the case of permanent vacancy in the office of Delegate by reason of death, resignation, or permanent disability, such vacancy shall be filled in one of the two following manners:

(1) If such vacancy occurs within six months prior to the date of the next general election, the Legislature of the Virgin Islands shall, subject to the approval of the Governor, select, by simple majority, a Delegate to the House of Representatives to fill the vacancy. The person selected shall be a member of the same political party as his predecessor.

(2) If a vacancy occurs at any time up to and including six months prior to the date of the next general election, such vacancy shall be filled by special election held not less than 30 nor more than 45 days after the date of the occurrence of the vacancy. Candidates for such special election shall be chosen by the members of the territorial committees of the political parties in the territory in a manner they deem to be appropriate, or in accordance with the provisions of subchapter II of chapter 17 of this title; however, the number of qualified electors signing such nomination papers in each legislative district shall be equal to not less than five (5%) percent of the vote cast for Delegate to the House of Representatives in the most recent general election for that office in such legislative district.

(Added July 17, 1972, No. 3261, Sess. L. 1972, p. 193)

HISTORY

Codification. Section originally enacted as 1 was renumbered 21 to conform to the general style of V.I.C.

Amendments-1984. Subsection (b): Amended generally.

Prior law. See note preceding this section.

Chapter 3. Boards of Elections

HISTORY

Reapportionment of Legislature; provisional repeal of certain laws. Establishment of Commission on Reapportionment of the Legislature for purpose of preparing and submitting to Legislature, by January 9, 1968, a recommended plan for reapportionment of the Legislature, and provisional repeal of all provisions of this title which refer to legislative districts of St. Thomas, St. Croix, and St. John, see Acts Feb. 15, 1967, No. 1850; Sept. 18, 1967, No. 2054, set out in note preceding chapter 1 of this title.

SECTION ANALYSIS

41. Boards of elections.

42-44. [Repealed.]

45. Clerk and other assistants; compensation; powers and duties of clerk; inspector of registration.

46. Quarters.

47. Jurisdiction, powers and duties of boards.

48. Regulations; subpoenas; oaths; witnesses; fees.

49. [Repealed.]

50. Journal of proceedings.

51. Counsel, compensation; duties.

52. Acts of board employees.

53. Public inspection of records and documents.

54. Preservation of records.

55. Watchers, attorneys and candidates at board sessions.

56. Board members as inspectors of registration.

57. Immunity from arrest.

58. Intervention in suits.

§ 41. Boards of elections

(a) There shall be two election districts within the Virgin Islands, the election district of St. Croix and the election district of St. Thomas-St. John. Each election district shall be comprised of the same geographic area as its respective legislative district and shall have a separate board of elections.

(b) Each Board shall consist of seven (7) members who shall be elected by the electors of each election district beginning with the 1986 general election. The St. Thomas-St. John Board shall include at least two (2) members who are residents of St. John. No more than four (4) members of the same political party shall be members of each Board.

(c) The term of office for each member shall be four (4) years beginning on the first Monday after the first day of January following the election. The terms of office shall be

staggered such that (i) at the 1986 general election, the electors of the St. Thomas-St. John election district may vote for one (1) St. John resident candidate and for not more than two (2) St. Thomas resident candidates; the electors of the St. Croix district may vote for not more than three (3) St. Croix resident candidates; (ii) at the 1988 general election, the electors of the St. Thomas-St. John election district may vote for one (1) St. John resident candidate and for not more than three (3) St. Thomas resident candidates; the electors of the St. Croix district may vote for not more than four (4) St. Croix resident candidates.

(d) No person is eligible to be a member of a board unless he meets the same eligibility qualifications for a member of the Legislature, as prescribed in section 6(b) of the Revised Organic Act of the Virgin Islands, except that the final sentence of said section 6(b) does not apply.

(e) The members of each board shall elect a Chairman and a Vice-Chairman from among its number at the first meeting after each election. A Chairman or a Vice-Chairman may be replaced by the members of the board.

(f) The Governor of the Virgin Islands shall within 60 days fill any vacancy on any board of elections, subject to the approval of the Legislature. The person appointed shall serve for the remainder of the term.

(g) Each member of a board of elections shall receive a stipend of \$50 for each day or part thereof spent in the performance of his official duties, plus necessary travel and subsistence expenses for travel from the island of residence for attendance at each meeting of the board; provided, that the stipend shall be \$60 for members and \$65 for Chairmen on election days, and on days on which recounts are held.

(h) The quorum of each Board shall be a majority of its members. No official action may be taken by a Board unless at a regular meeting, or a meeting called by the Chairman or by the members of the Board, at which a quorum is present by affirmative vote of a majority of its members present.

(Added Feb. 20, 1963, No. 936, § 1; amended April 2, 1964, No. 1163, § 4, Sess. L. 1964, p. 165; July 17, 1967, No. 2035, § 2, Sess. L. 1967, p. 412; June 26, 1968, No. 2252, § 1(a), Sess. L. 1968, Pt. II, p. 66; Oct. 29, 1970, No. 2865, Sess. L. 1970, p. 352; Nov. 15, 1971, No. 3126, § 1, Sess. L. 1971, p. 361; April 26, 1972, No. 3215, § 2, Sess. L. 1972, p. 76; Oct. 25, 1978, No. 4238, § 1, Sess. L. 1978, p. 271; May 3, 1984, No. 4934, § 4(a), Sess. L. 1984, p. 109; May 12, 1986, No. 5157, § 1(a)(ii), Sess. L. 1986, p. 44; Sept. 28, 1987, No. 5281, § 4, Sess. L. 1987, p. 134; Oct. 21, 1988, No. 5367, § 2(a), Sess. L. 1988, p. 252; Sept. 28, 1990, No. 5636, § 1(e), Sess. L. 1990, p. 345.)

HISTORY

Source. Former Title 18 V.I.C. § 3, as amended by Act June 2, 1959, No. 421, § 2, Sess. L. 1959, p. 25; former Title 18 V.I.C. § 5(a).

Effective date. Act Nov. 15, 1971, No. 3126, § 2, Sess. L. 1971, p. 361, provided: "The provisions of this Act shall be effective, retroactively to September 1, 1970."

Amendments-1990. Subsection (g): Substituted "\$50" for "\$40" following "stipend of".

-1988. Subsection (g): Substituted "\$40" for each day or part thereof spent in the performance of his official duties" for "\$30" per meeting" preceding "plus necessary".

-1987. Subsection (g): Added "provided, that the stipend shall be \$60 for members and \$65 for Chairmen on election days, and on days on which recounts are held" following "meeting of the board" at the end of the subsection.

-1986. Subsection (b): Amended generally.

Subsection (c): Amended generally.

Subsection (h): Amended generally.

-1984. Amended section generally.

-1978. Subsection (g): Increased stipend of "\$10" to "\$20" per meeting; "\$40" to "\$60" for members; and "\$45" to "\$65" for Chairmen.

-1972. Subsection (b): Added last proviso limiting membership of same political party as candidates for each board.

-1971. Subsection (g): Added reference to recounts at end.

-1970. Subsection (g): Increased stipend for members on election day from \$20 to \$40 and added \$45 for chairmen.

-1968. Amended generally.

-1967. Subsection (a): Opening clause amended by changing the appointment of the board of elections from "elected by the Legislature" to "appointment by the Governor, subject to the approval of the Legislature".

-1964. Subsection (e): Added.

Effective date of amendments-1988. Act Oct. 21, 1988, No. 5367, § 8(a), Sess. L. 1988, p. 254, provided that notwithstanding section 6 of this title, prohibiting amendments to this title 6 months preceding the date of a general election, section 2(a) of the act, which amended this section, was to take effect upon enactment, Oct. 21, 1988.

-1978. Act Oct. 25, 1978, No. 4238, § 4, Sess. L. 1978, p. 271, provided: "This Act [which amended subsec. (g) of this section and section 158(a) and (c) of this title] shall become effective immediately notwithstanding any other provision of law to the contrary."

-1968. Section 11 of Act June 26, 1968, provided: "The provisions of this Act [amending this section and sections 4, 42-44, 46, 47, 49, 342, 381, 492, 584 and chapters 5 through 25 of this title] shall become effective upon approval by the Governor."

The Governor signed Act No. 2252 on June 26, 1968.

Composition of boards. Act May 12, 1986, No. 5157, § 4, Sess. L. 1986, p. 45, provided: "Notwithstanding Title 18, sections 6 and 41, Virgin Islands Code, as amended, each Board, shall consist of ten (10) members beginning with the 1986 general election until the 1988 general election. During the 1986 - 1988 term not more than five (5) members of the same political party shall be members of the Board of Elections.

CROSS REFERENCES

For provisions of the Organic Act relating to the appointment of officers responsible for the direction and administration of the electoral system, see section 6(c) of the Revised Organic Act of the Virgin Islands, app. July 22, 1954 (48 U.S.C. § 1572).

The Revised Organic Act of the Virgin Islands, approved July 22, 1954, is set out preceding Title 1 of this Code.

ANNOTATIONS

Analysis

1. Expenses.
2. Vacancies.
3. Political activity.

1. EXPENSES.

Members of the Board of Elections were only entitled to a \$60.00 stipend for working on election day, even if they worked past midnight., 9 V.I.Op.A.G. 117.

Members of the Board of Elections, while travelling on government business, are entitled to actual subsistence expenses incurred in the travel, rather than a per diem expense., 7 V.I.Op.A.G. 232.

2. VACANCIES.

Governor may fill vacancies on the Board of Elections during a recess of the legislature; absent legislative approval, such appointments expire at the end of the next session of the legislature, or the end of the remainder of the term for which the vacancy exists, whichever is shorter., 10 V.I.Op.A.G. 21.

3. POLITICAL ACTIVITY.

Member of Board of Elections may properly be a delegate at a political convention, sit on a steering or campaign committee, or otherwise be actively involved with a political party which has candidates on the ballot., 10 V.I.Op.A.G. 14.

§ 42-44. Repealed. June 26, 1968, No. 2252, § 4, Sess. L. 1968, p. 70.

HISTORY

Source. These sections related to board officers, vacancies on boards, and compensation of board members. They were based on former sections 4, 6 and 9 of Title 18 and were added to the code by Act Feb. 20, 1963, No. 936, § 1.

Former section 43 was amended by the following Acts: April 2, 1964, No. 1163, § 3, Sess. L. 1964, p. 165; April 27, 1964, No. 1208, § 1, Sess. L. 1964, p. 310; July 17, 1967, No. 2035, § 3, Sess. L. 1967, p. 412.

Former section 44 was amended by the following Acts: April 2, 1964, No. 1163, § 5, Sess. L. 1964, p. 165; April 21, 1965, No. 1437, § 7, Sess. L. 1965, Pt. I, p. 200.

ANNOTATIONS UNDER FORMER § 43

1. PRIOR LAW.

The election board could temporarily fill vacancies in its membership, provided there was a quorum on the board to act, though it was the Municipal Council that elected new members to the board., 1 V.I.Op.A.G. 117.

ANNOTATIONS UNDER FORMER § 44

1. PRIOR LAW.

A bill for luncheons and suppers served members of the Board of Elections cannot be lawfully paid with government funds. 2 Govt. Compt. Dec. 41, Mar. 5, 1956.

§ 45. Clerk and other assistants; compensation; powers and duties of clerk; inspector of registration

(a) There may be employed to serve each board of elections a clerk and other necessary board assistants, which clerk and other assistants shall be in the career service established pursuant to the provisions of Title 3, chapter 25 of the Code. Such clerk and other assistants shall be qualified electors of the district. The clerk shall keep the journal and have custody of the records of the board, and, in addition to performing any other duties prescribed by the board, shall serve as an inspector of registration, and, when so serving, may administer oaths and affirmations, and shall exercise the powers conferred, and perform the duties and obligations imposed, by this title upon inspectors of registration.

(b) The clerk, in his capacity as inspector of registration, shall take an oath of office as prescribed by the board, and shall receive from the board a certificate of appointment, setting forth his name and address, the date of his appointment, and the length of time for which he shall have been appointed.

(c) No person who holds, or is a candidate for public or party office shall be appointed to or hold any office or employment under a board of elections, unless this title otherwise provides.

(Added Feb. 20, 1963, No. 936, § 1; amended Nov. 6, 1975, No. 3764, § 2, Sess. L. 1975, p. 188.)

HISTORY

Source. Former Title 18 V.I.C. § 8; Purdon's Penn. Statutes, Title 25, § 951-5(b), (c), (d).

Amendments-1975. Subsection (a): Omitted reference in the first sentence to "chairman of each board of elections" and provided that employees of each board of elections shall be covered by the classified service.

Effective date of amendments-1975. For effective date of Act Nov. 6, 1975, see note set out under § 4 of this title.

Exemptions. For exemptions of Act Nov. 6, 1975, No. 3764 amendment to this section, see note set out under § 4 of this title.

§ 46. Quarters

The Commissioner of Property and Procurement shall provide the Supervisor of Elections and each board of elections with suitable and adequate offices within its election district, properly furnished for keeping its records, holding its public sessions and otherwise performing its public duties.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, §§ 951-7(b), 2645(b).

Amendments-1968. Substituted "election district" for "legislative district".

Effective date of amendments-1968. Effective date of amendment of this section by Act June 26, 1968, see note under section 41 of this title.

§ 47. Jurisdiction, powers and duties of boards

The boards of elections, within their respective election districts, have jurisdiction over the registration of electors and the conduct of primaries and elections, in accordance with the provisions of this title and such rules and regulations as may be prescribed under this title by the boards of elections to the end that the administration of the election process shall be uniform throughout the Virgin Islands, and each board, within its district, shall exercise all powers granted to, and perform all duties vested in, the boards by this title, including the duty to:

(1) investigate and report to the Legislature its recommendations on all petitions presented to the Legislature by electors in its district for the division, redivision, alteration, change, addition or consolidation of polling districts, and present to the Legislature petitions for such division, redivision, alteration, change, addition or consolidation in proper cases;

(2) perform all functions with respect to the registration and party enrollment of electors within its election district, as vested in it by this title;

(3) preserve, store and maintain registers and primary and election equipment of all kinds, including ballot boxes and any other equipment used in voting;

(4) issue certificates of appointment to election officers and clerks;

(5) make and issue such rules, regulations and instructions, not inconsistent with law, as it may deem necessary for the guidance of election officers and other assistants, and electors;

(6) instruct election officers and other assistants in their duties, in conformity with directives, rules and regulations issued by the boards of elections, calling them together in meeting whenever deemed advisable, and inspect systematically and thoroughly the conduct of registration of electors, and of primaries and elections in the polling places in the election districts to the end that primaries and elections may be honestly, efficiently, and uniformly conducted;

(7) prepare, post, and publish, in the manner provided by law, all notices and advertisements in connection with the registration of electors and the conduct of primaries and elections, which may be required by law;

(8) investigate election frauds, irregularities and violations of this title, and report all suspicious circumstances to the Virgin Islands Department of Justice for possible prosecution;

(9) receive from election officers the returns of all primaries and elections, canvass, and compute the returns, and certify, no later than one week following the primary or election, the results thereof to the Supervisor of Elections;

(10) furnish to the Supervisor of Elections, upon his request, such information from the records of the board, as he may require, to carry out his duties under this title;

(11) prepare and submit an annual report to the Supervisor of Elections in the form prescribed by him, which shall contain a statement of the number of electors registered and those enrolled according to party affiliation as of June 30th; and

(12) annually prepare and submit the budget for the cost of the registration and party enrollment of electors, of primaries and elections, and of the expenses of the board, for the ensuing fiscal year;

(13) promulgate and issue uniform rules and regulations for the administration and enforcement of the election laws throughout the Virgin Islands. For purposes of complying with this duty, the Boards shall meet jointly at least quarterly at the call of the Chairman of the Joint Boards, either upon his motion or at the request of the Supervisor of Elections, in order to consider and adopt such rules and regulations. Such joint meetings shall be alternated between the election districts. A quorum of the Joint Boards shall consist of a majority of members; Provided, however, That not less than three (3) members from each district shall be included in the quorum. A majority of a quorum so constituted shall be required to establish any rule or regulation. Board members shall, at the first joint meeting following each general election, designate a Chairman and Vice-Chairman from among their members to preside over such joint meetings and supervise the discharge of their responsibilities in connection therewith, including the enforcement of adopted uniform rules and regulations.

Notwithstanding Title 3, section 913, Virgin Islands Code, any rule or regulation adopted by a quorum of the Joint Boards shall be effective after a copy of such rules or regulations or any changes thereto have been delivered to the Governor and the members of the Legislature.

(14) The boards of elections, in consultation with the Supervisor of Elections, shall exercise emergency powers over any election held in a district in which either a natural disaster or extremely inclement weather has occurred. The boards of elections, in consultation with the Supervisor of Elections, shall also exercise emergency powers during an armed conflict involving U.S. armed forces, or mobilization of those forces, including the National Guard and Reserve components, or in the event of a legal

challenge in the courts to the results of an election whereby the validity of the election is called into question. The boards of elections and the Supervisor of Elections shall jointly adopt rules and regulations setting forth the particulars for the exercise of the emergency powers granted herein.

(Added Feb. 20, 1963, No. 936, § 1; amended April 21, 1965, No. 1437, § 1, Sess. L. 1965, Pt. I, p. 199; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; April 26, 1972, No. 3212, §§ 6-10, Sess. L. 1972, p. 72. May 3, 1984, No. 4934, § 4(b), Sess. L. 1984, p. 111; Sept. 2, 1994, No. 6009, § 3(8), Sess. L. 1994, p. 163; Sept. 9, 1996, No. 6118, § 4, Sess. L. 1996, p. 97.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, §§ 951-1 et seq., 2641, 2642.

Amendments-1996. Paragraph (8): Substituted "the Virgin Islands Department of Justice for possible prosecution" for "the United States attorney".

-1994. Paragraph (14): Added.

-1984. Paragraph (13): Amended generally.

-1972. In opening paragraph substituted "the boards of elections to the end that the administration of the election process shall be uniform throughout the Virgin Islands" for "Supervisor of Elections".

Paragraph (5): Omitted the words "or with the rules and regulations prescribed by the Supervisor of Elections under this title".

Paragraph (6): Inserted the phrase, "in conformity with directives, rules and regulations issued by the boards of elections,".

Paragraph (12): Omitted reference to Supervisor of Elections.

Paragraph (13): Added.

-1968. Substituted the words "election districts" or "election district" for "legislative districts" and "legislative district".

-1965. Paragraph (6): Inserted provision requiring conformity with directives, rules and regulations issued by Supervisor of Elections.

Effective date of amendments-1972. See note set out under section 4 of this title.

-1968. See note under section 41 of this title.

Voter registration periods. Act May 3, 1984, No. 4934, § 15, Sess. L. 1984, p. 132, provided: "The Boards of Elections are authorized and directed to conduct voter registration at least one Saturday per month for the months of January through October during General Election years."

ANNOTATIONS

Analysis

1. Status of boards.
2. Recount.

1. STATUS OF BOARDS.

Supervisor of Elections is subordinate to the Joint Boards of Elections for purposes of adopting rules and regulations, and is subordinate to the District Board of Elections for all other purposes., 7 V.I.Op.A.G. 231.

2. RECOUNT.

Board of elections is authorized to open ballot boxes to certify the accuracy of a return and to recheck the latest results of a recount; and where recount upon duly filed petition of unsuccessful candidate resulted in displacement of the winner of the election and there was an unprecedented disparity between the canvassing of the original returns and the canvassing of the recount, there was an irregularity and board was statutorily bound to investigate and to certify the regularity, correctness and sufficiency of one of the two computations., 8 V.I.Op.A.G. 23.

§ 48. Regulations; subpoenas; oaths; witnesses; fees

(a) Each board of elections may prescribe regulations, not inconsistent with this title or other law, to govern its public sessions, and may issue subpoenas, summon witnesses, compel production of books, papers, records and other evidence, and fix the time and place for hearing any matters relating to the administration and conduct of registrations and party enrollments of electors and of primaries and elections in the district under the provisions of this title. All subpoenas issued by the board shall be in substantially the same form and shall have the same force and effect as subpoenas issued by the district court, and, upon application, the board shall be entitled to the process of that court, if necessary, to enforce any subpoena issued by the board.

(b) Each member of a board may administer oaths and affirmations pursuant to the provisions of this title. Each person testifying before a board shall first be duly sworn or affirmed.

(c) A person filing a petition with a board, or opposing a petition filed therewith, may have subpoenas issued by the board to compel the attendance of witnesses, upon condition that all witnesses so subpoenaed shall be paid \$2.50 each per day as witness fees, in the manner provided in this section.

(d) Except as provided in subsection (e) of this section, each witness subpoenaed by the board on its own motion or request shall be entitled to daily witness fees at the rate specified in subsection (c) of this section, to be paid by the board.

(e) Election officers, clerks, inspectors, and watchers, when subpoenaed by the board to appear before it, sitting for the computation and canvassing of votes cast at an election, shall not be entitled to witness fees.

(f) No subpoena shall be issued for the benefit of a person other than the board until he shall have deposited with the board one day's witness fees for each witness to be summoned thereby, whose names shall be given to the board and entered by it in such subpoena and among its records, and no such subpoena shall be effective to require the further attendance of a witness after the day mentioned therein, unless the hearing be

postponed or continued by the board, and unless, before four o'clock p.m. of such day, the person for whose benefit it be issued shall have deposited with the board an additional day's witness fees for each witness whose further attendance is desired.

(g) As soon as convenient after a hearing is concluded, postponed or continued on any day, the board shall disburse the fees deposited with it by any persons aforesaid, among those witnesses who have appeared in response to subpoenas issued as aforesaid and shall return to the depositor any fees deposited by him for others who did not attend, and shall also pay the fees to any witnesses summoned by the board on its own motion or request, taking their receipts therefor, as long as there are sufficient funds available for such payments.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, §§ 951-4, 951-43, 2644.

§ 49. Repealed. June 26, 1968, No. 2252, § 4, Sess. L. 1968, p. 70.

HISTORY

This section provided that all board actions be by majority vote, was based on former § 4 of Title 18 and on Purdon's Penn. Statutes, Title 25, § 2643(a), and was added to this code by Act Feb. 20, 1963, No. 936, § 1.

§ 50. Journal of proceedings

Each board of elections shall maintain a journal of all its proceedings, which shall be kept by the clerk of the board.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Former Title 18 V.I.C. § 7.

§ 51. Counsel, compensation; duties

The Attorney General of the United States Virgin Islands shall serve as counsel for each board of elections, and shall receive no compensation therefor in addition to his compensation as Attorney General. He shall advise each board, from time to time, regarding its powers and duties, and the rights of candidates and electors, and concerning the best methods of legal procedure for carrying out the various provisions of this title. He shall appear for and represent each board on all appeals taken from its decisions or orders to the district court, as provided in this title.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, §§ 951-6, 2646.

Revision note. Inserted "United States" preceding "Virgin Islands" in the first sentence.

§ 52. Acts of board employees

Any insertion or removal of names or other information in registers, or the amending of any records by an employee of a board of elections, shall be construed to have been done by the board itself, which shall likewise be responsible for the correction of any errors in the doing thereof.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, §§ 951-8, 2647.

§ 53. Public inspection of records and documents

(a) Subject to the provisions of subsection (b) of this section, the records of each board of elections, and all registers, voting lists, certificates, papers, affidavits, general and duplicate returns, petitions, appeals, witness lists, accounts, contracts, reports, and other documents in its custody shall be open to public inspection, and may be inspected and copied by any qualified elector of the district during ordinary business hours, at any time when they are not necessarily being used by the board, or its employees having duties to perform thereto.

(b) The public inspection permitted by this section shall only be in the presence of a member or authorized employee of the board, and shall be subject to proper regulation for safekeeping of the records and documents, and subject to the further provisions of this title. Returns, tally papers, affidavits of voters and others, and all other papers required to be returned by the election officers to the board sealed, shall be open to public inspection only after the board shall, in the course of computation and canvassing of the returns, have broken the seals and finished, for the time, its use of such papers in connection with such computation and canvassing.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, §§ 951-12, 2648.

§ 54. Preservation of records

All documents, papers and records in the office of the board of elections for each district, relating to the conduct and result of any primary or election, shall be preserved for a period of at least two years, and shall be preserved for a greater period if the board has been notified in writing by the United States attorney, or by a judge of a court of

record, to preserve such papers for a longer period of time, for the purposes of pending prosecution or litigation.

(Added Feb. 20, 1963, No. 936, § 1; amended April 2, 1964, No. 1163, § 6, Sess. L. 1964, p. 165.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2649.

Amendments-1964. Changed period for preservation from one year to two years.

§ 55. Watchers, attorneys and candidates at board sessions

(a) Any political party which is, or hereafter may be, entitled to have watchers at any registration, or primary or election, shall also be entitled to appoint watchers who are qualified electors of the district, or attorneys, to represent such party at any public session of the board of elections of the district, and at any computation and canvassing of returns of a primary or election or recount of ballots under the provisions of this title. Such watchers or attorneys may exercise the same rights as watchers at registration and polling places, but the number of such persons who may be present at any one time may be limited by the board to three for each party.

(b) Every candidate shall be entitled to be present in person or by attorney in fact duly authorized, and to participate in any proceeding before a board of elections whenever any matters which may affect his candidacy are being heard, including any computation and canvassing of returns of a primary or election or recount of ballots affecting his candidacy.

(c) Any watcher, attorney or candidate present at a recount of ballots may examine the ballots and raise any objections regarding the same, which shall be decided by the board, subject to appeal, in the manner provided by this title.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, §§ 951-14, 951-15, 2650.

ANNOTATIONS

1. NOTICE OF CANVASSING OF VOTES.

The board of elections must give each candidate and each political party notice of the time and place at which the board will canvass votes., 8 V.I.Op.A.G. 25.

§ 56. Board members as inspectors of registration

Members of boards of elections may act at any time as inspectors of registration, and, when so acting, shall have and may exercise the powers, and shall perform the duties and obligations conferred by or in accordance with law upon inspectors of registration.
(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 951-9.

§ 57. Immunity from arrest

Members of boards of elections and inspectors of registration shall be privileged from arrest while performing their duties as such under this title, except upon warrant of a court of record or a judge thereof, for felony, for wanton breach of the peace, or for a criminal violation of this title.
(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, §§ 951-10, 2651.

§ 58. Intervention in suits

In any suit brought by or against a board of elections, the Attorney General shall be permitted to intervene on behalf of the territory of the Virgin Islands at any stage of the proceedings.
(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2652.

Chapter 5. Registration of Electors

HISTORY

Reapportionment of Legislature; provisional repeal of certain laws. Establishment of Commission on Reapportionment of the Legislature for purpose of preparing and submitting to Legislature, by January 9, 1968, a recommended plan for reapportionment of the Legislature, and provisional repeal of all provisions of this title which refer to legislative districts of St. Thomas, St. Croix, and St. John, see Acts Feb. 15, 1967, No. 1850; Sept. 18, 1967, No. 2054, set out in note preceding chapter 1 of this title.

SECTION ANALYSIS

91. Registration under this chapter.
92. Investigative and enforcement powers of board members and inspectors of registration.
93. Who may register; who may vote; electors need register only once; exception.
94. Registration period.
95. Place of registration.
96. Notice of registration.
97. Attendance of board or registrars at registration place.
98. Closing time of registration place.
99. Registration cards; preparation and distribution.
100. Manner of registration.
101. Applicants to register may be challenged; procedure; challenge affidavit.
102. Incomplete or rejected application to be recorded.
103. Appeal of rejected applicant.
104. General register.
105. District registers.
106. Removal notices.
107. Transfer of registration.
108. Change of enrollment of political party; cancellation of party enrollment.
109. Reports of change of voter status.
110. Check-ups of registers.
111. Notification upon transfer in certain instances.
112. Comparison and correction of registers.
113. Petition to strike off names.
114. Delivery of district registers to election officers.
115. Examination of district registers.
116. [Repealed.]
117. Cancellation, removal, and preservation of registration cards.
118. Correction by board of errors in cancellation of registration.
119. Appeals to court; time of hearing; notice; postponement; hearing; decision of court; costs and fees.
120. Production of documents, etc., at appeals.

§ 91. Registration under this chapter

Provision for the registration and party enrollment of qualified electors shall be made throughout each year, except during the period of 30 days immediately preceding and five days immediately following each election, as provided in this chapter.

(Added Feb. 20, 1963, No. 936, § 1; amended April 26, 1972, No. 3215, § 3, Sess. L. 1972, p. 77; July 12, 1978, No. 4156, § 1, Sess. L. 1978, p. 150.)

HISTORY

Source. Former Title 18 V.I.C. § 71, as amended by Act May 16, 1957, No. 160, § 47, Sess. L. 1957, p. 20.

Amendments-1978. Deleted references to primary elections and the 45-day period preceding each election.

-1972. Changed period of registration to "30 days immediately preceding each primary and of 45 days immediately preceding each election" from "30 days immediately following each election".

Effective date of amendments-1978. Act July 12, 1978, No. 4156, § 13, Sess. L. 1978, p. 153, provided: "Notwithstanding the contrary provisions of section 6 of Title 18, Virgin Islands Code, the amendments to Title 18 made by this Act [which amended this section and sections 94, 96, 97, 99, 100, 106, 262, 413, 416, 581 and 586 of this title] shall be effective on the date of enactment of this Act [July 12, 1978]."

§ 92. Investigative and enforcement powers of board members and inspectors of registration

Any member of a board of elections, and any inspector of registration when directed by the board of elections under which he serves, may:

(1) at any time prior to 30 days before any primary or general election and after 5 days from such election, investigate all questions relating to the registration of electors in his election district, and, for that purpose, enter and inspect any house, dwelling, building, inn, lodginghouse or hotel in such district, and interrogate any inmate, householder, lodger, lessee, keeper, caretaker, owner, proprietor, or agent therein, regarding any person residing or claiming to reside thereat or therein; provided, that no such entry, inspection or interrogation shall be made except upon warrant issued by a judge of a court of record. A warrant shall issue only on an affidavit sworn to before the judge by a person who has been duly appointed as a member of a board of elections or an inspector of registration setting forth the purpose and necessity for the same, a description of the premises to be entered, and the name of the registered elector or applicant for registration, residing or claiming to reside therein who is being investigated. If the judge is satisfied that sufficient grounds for the warrant exist, he shall issue the same identifying the registered elector or applicant for registration who is being investigated, the premises to be entered, and the parts thereof, if any, to be inspected. Any entry, inspection or interrogation hereunder shall be made only in the daytime between the hours of 8 a.m. to 6 p.m., except upon a satisfactory showing to the judge that the information sought could not be obtained except at other times.

(2) inspect in like manner and copy any register of lodgers in any lodginghouse, inn or hotel relating to or affecting the right of any person to vote or to be registered in such district; and

(3) call on any police or peace officer within the district to assist him in the maintenance of peace at any place of registration or in making any arrest.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 951-5(f)(1), (2), (3), (4).

Amendments-1968. Paragraph (1): Substituted "election" for "legislative" following "electors in his" in the first sentence.

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 93. Who may register; who may vote; electors need register only once; exception

(a) Every person who possesses all the qualifications of an elector as provided in this title and the Revised Organic Act of the Virgin Islands of 1954, or any other law hereafter applicable to the Virgin Islands, or who, by continued residence in this district, will have obtained such qualifications before the next ensuing election, shall be entitled to register as herein provided. No person shall be permitted to vote at any election or primary held in any election district unless he shall have been so registered, except by order of the district court as hereinafter provided; and no elector so registered shall be required to register again for any election or primary while he continues to reside at the same address, unless his registration is cancelled by reason of his failure to vote at two consecutive general elections as provided in section 116 of this title.

(b) The provisions and requirements for registration as set forth in this title shall not apply to persons otherwise entitled to vote, who are, at the time of the election, or at any time within 60 days prior to an election have been, engaged in the military service of the United States, and who appear personally at the polling place on election day and produce to the registrar or any authorized inspector of registration, satisfactory evidence thereof. Such persons, if otherwise qualified to vote, shall be permitted to vote at such election without previous registration.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(6); June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70; Sept. 2, 1994, No. 6009, § 3(7), Sess. L. 1994, p. 163.)

HISTORY

References in text. Section 116 of this title as referred to in subsection (a) has been repealed by Act Sept. 2, 1994, No. 6009, § 1, Sess. L. 1994, p. 161.

Amendments-1994. Designated the existing text of the section as subsec. (a) and added subsec. (b).

-1968. Substituted "election" for "legislative" following "held in any" in the second sentence.

-1963. Changed "during a period of two years as hereinafter provided" to "at two consecutive general elections as provided in section 116 of this title".

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 94. Registration period

(a) The offices of each board of elections shall be open for the examination and registration of electors every day from 9:00 o'clock a.m. to 4:00 o'clock p.m., except Saturday, Sunday, legal holidays and except during the period of 30 days immediately preceding and five days immediately following each election. An employee of the election system of the Virgin Islands who has been appointed by the Supervisor of Elections to be a registrar pursuant to subsection (b) of this section or any board member shall examine and register applicants who present themselves at the offices of the board for registration pursuant to this subsection.

(b) The Supervisor of Elections may appoint any full-time employee of the election system of the Virgin Islands to act as a registrar. A registrar shall be empowered to register electors pursuant to the provisions of subsection (a) of this section. A registrar shall be a qualified elector of the district in which he is appointed, and shall take an oath of office prescribed by the Supervisor of Elections. Registrars may be removed by the Supervisor for cause. Employees of the election system who are appointed registrars shall receive no additional compensation for serving as registrars.

(c) The Board of Elections of each district, or a part thereof of not less than two members, shall sit for the purpose of examining and registering qualified electors on such days and at such times and places in addition to those provided in subsection (a) of this section as it may deem necessary or advisable for the accommodation of electors, except that no electors shall be registered during the period of 30 days immediately preceding and five days immediately following each election. The Supervisor shall insure that there be at least one full-time registrar who is fluent in both Spanish and English present at the offices of each board of elections every day in each week in which the offices are open for the examination and registration of electors.

(Added Feb. 20, 1963, No. 936, § 1; amended April 2, 1964, No. 1163, § 7, Sess. L. 1964, p. 165; April 26, 1972, No. 3212, § 11, Sess. L. 1972, p. 73; April 26, 1972, No. 3215, § 4, Sess. L. 1972, p. 77; July 12, 1978, No. 4156, § 2, Sess. L. 1978, p. 150; July 31, 1978, No. 4169, §§ 1, 2, Sess. L. 1978, p. 165, 166; April 2, 1982, No. 4692, § 1, Sess. L. 1982, p. 54; Sept. 2, 1994, No. 6009, § 2, Sess. L. 1994, p. 161.)

HISTORY

Source. Former Title 18 V.I.C. § 72, as amended by Act May 16, 1957, No. 160, § 48, Sess. L. 1957, p. 36; former Title 18 V.I.C. § 75.

Amendments-1994. Subsection (c): Inserted "full-time" preceding "registrar" and substituted "every" for "not less than one" preceding "day" in the second sentence.

-1982. Subsection (c): Added the second sentence.

-1978. Amended section generally by Act No. 4156.

Subsection (a): In the second sentence Act No. 4169 substituted subsec. "(b)" for "(c)".

Subsection (c): Added by Act No. 4169.

-1972. Subsection (a): Act No. 3215, § 4, extended period of registration to 30 days preceding each primary and 45 days preceding each election. In last sentence substituted "46" for "31" days.

Subsection (b): No. 3212 substituted "boards of elections" for "Supervisor of Elections" at end of subsection.

Act No. 3215, § 4, substituted "30 days before each primary and 45 days before each election" for "30 days before each election and each primary".

-1964. Struck the period at the end of the paragraph, and added the phrase "in accordance with the rules and regulations of the Supervisor of Elections." Amending act failed to specify which subsection was intended to be amended. The phrase is added to subsection (b) to carry out probable intent of Legislature.

Effective date of amendments-1978. Act No. 4156 effective as of July 12, 1978, see note set out under section 91 of this title.

-1972. For effective date of amendment of this section by Act April 26, 1972, No. 3212, see note set out under section 4 of this title.

§ 95. Place of registration

(a) Registration shall be made at such place or places in each election district as the board of elections of the district may designate.

(b) In addition to the places designated for registration pursuant to subsection (a) of this section, the Board of Elections of each district shall arrange with the Commissioner of Education and the President of the University of the Virgin Islands to conduct registration of students who are qualified electors for one week each during the fall and spring semesters at each public and vocational school and at the St. Thomas and St. Croix campuses of the University of the Virgin Islands. In election years, the Board shall conduct the week of registration in the fall at least two weeks prior to the closing of registration for the general election. The Board shall insure that notice of the registration be given during a period of not less than two weeks prior to each week of registration. Such notice shall include, but shall not be limited to, the posting of appropriate notices in conspicuous places at each school or college campus. The Board shall further plan and present appropriate educational and informational programs in conjunction with each week of voter registration.

(c) With the concurrence and cooperation of the head or director of each private and parochial school, the Board shall conduct voter registration and educational and informational programs in such school similar to those conducted pursuant to subsection (b) of this section.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70; June 30, 1981, No. 4573, Sess. L. 1981, p. 68; Oct. 14, 1986, No. 5207, § 9, Sess. L. 1986, p. 249.)

HISTORY

Source. Former Title 18 V.I.C. § 76.

Amendments-1986. Subsection (b): Substituted "University of the Virgin Islands" for "College of the Virgin Islands" in two places in the first sentence.

-1981. Designated existing provisions of section as subsec. (a) and added subsecs. (b) and (c).

-1968. Subsection (a): Substituted "election" for "legislative" following "places in each".

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 96. Notice of registration

Within seven days before the first day of each month, the Chairman of the Board of Elections for each election district shall cause to be published in the local newspapers of general circulation in his district, and posted at the offices of the Board and at three public places in the district, the places and hours at which registration will be made in that district during the ensuing month. Such notice shall include the dates upon which registrars who are fluent in both Spanish and English shall be present at each place of registration. The notices required by this section shall be printed in both English and Spanish.

(Added Feb. 20, 1963, No. 936, § 1; amended April 7, 1970, No. 2689, § 4, Sess. L. 1970, p. 65; July 12, 1978, No. 4156, § 3, Sess. L. 1978, p. 151; April 2, 1982, No. 4692, § 2, Sess. L. 1982, p. 54; May 3, 1984, No. 4934, § 5(a), Sess. L. 1984, p. 112.)

HISTORY

Source. Former Title 18 V.I.C. § 74, as amended by Act May 16, 1957, No. 160, § 49, Sess. L. 1957, p. 36.

Amendments-1984. Inserted "of general circulation" preceding "in his district" and substituted "will" for "may" following "registration" in the first sentence, added the third sentence, and made other minor stylistic changes throughout the section.

-1982. Added the second sentence.

-1978. Amended section generally.

-1970. Subsection (c): Added.

Effective date of amendments-1978. Act No. 4156 effective as of July 12, 1978, see note set out under section 91 of this title.

§ 97. Attendance of board or registrars at registration place

The places of elector registration established pursuant to section 95 of this title shall be open continuously during the hours specified in the public notices published pursuant to section 96 of this title.

During the time any elector is being registered, only members of the board, registrars appointed by the Supervisor of Elections, clerical staff of the board, the Supervisor of Elections, one watcher for each political party, and persons being registered may be in the place of registration. Each watcher must obtain a certificate from the board of elections stating his name and the name of the political party which he represents. No such certificate may be provided to any person unless such person satisfies the board that he has been selected as a watcher by the territorial committee of the political party.

(Added Feb. 20, 1963, No. 936, § 1; amended May 29, 1968, No. 2214, § 1; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; July 12, 1978, No. 4156, § 4, Sess. L. 1978, p. 151.)

HISTORY

Source. Former Title 18 V.I.C. § 77.

Revision note. Section 95 was substituted for section 94 in the first paragraph.

Amendments-1978. Amended section generally.

-1968. Act May 29, 1968, No. 2214, § 1, added second paragraph. Act June 26, 1968, No. 2252, § 5, substituted "election district" for "legislative district".

Effective date of amendments-1978. Act No. 4156 effective as of July 12, 1978, see note set out under section 91 of this title.

§ 98. Closing time of registration place

All applicants entitled to register who are in the place where the registration is held at or before the time of closing shall be allowed to register if qualified.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Former Title 18 V.I.C. § 78.

§ 99. Registration cards; preparation and distribution

(a) For the purpose of registering the qualified electors of the election districts, the Supervisor of Elections shall prepare and furnish to each board of elections registration cards, serially numbered, in duplicate, and containing spaces for entering the information required by section 100 of this title, and the following affidavit:

REGISTRATION AFFIDAVIT
Territory of the Virgin Islands)
) ss.

Election District of _____)

I hereby swear (or affirm) that I am a citizen of the United States, that I am not a registered voter in any other state or territory of the United States or in any foreign country or in any other election district, that on the day of the next election I shall be at least 18 years of age and shall have resided in the Territory of the Virgin Islands and in this election district for at least 30 days next preceding said election, that I am legally qualified to vote, that I have read (or have had read to me) the foregoing statements made in connection with my registration and that they are true and correct.

Subscribed and sworn to before me this _____ day of _____, 19____.

Signature of Voter

Signature of Board Member or Clerk

(b) Subject to the foregoing provisions of this section, the Supervisor of Elections shall prescribe the form of such registration cards.

(c) Each card shall be printed on stock of good quality, shall be of suitable uniform size, and shall be filled out in duplicate for each applicant for registration. The Supervisor of Elections shall provide and furnish to the board suitable binders for filing and indexing the registration cards, which shall be capable of being locked. The keys of all such binders shall at all times be retained by the board.

(Added Feb. 20, 1963, No. 936, § 1; June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70; July 12, 1978, No. 4156, § 5, Sess. L. 1978, p. 151; July 15, 1988, No. 5352, § 2, Sess. L. 1988, p. 183.)

HISTORY

Amendments-1988. Subsection (a): Inserted "for a period of 90 days next preceding said election" following "resided" in the text of the Registration Affidavit.

-1978. Subsection (a): Amended registration affidavit.

-1968. Subsection (a): Substituted "election" for "legislative" preceding "districts".

Effective date of amendments-1988. Act July 15, 1988, No. 5352, § 5, Sess. L. 1988, p. 184, provided that section 2 of the act, which amended subsec. (a) of this section, shall become effective for the general election of November, 1990.

-1978. Act No. 4156 effective as of July 12, 1978, see note set out under section 91 of this title.

-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 100. Manner of registration

(a) Every person claiming the right to be registered as an elector shall appear in person at the office of the Board, or at such other place or places as the Board shall have designated, shall present valid proof of United States citizenship and shall answer the questions required to be asked in accordance with this chapter. A voter may deliver to the Board of Elections or the registrar at the time of his registration a written statement of religious scruples against voting at a polling place located in premises used for religious purposes. In the event the polling place for any such voter's election district shall be

located in premises used for religious purposes, the Board of Elections shall be authorized to reassign said voter to another polling place.

(b) He shall first be sworn or affirmed to the truth of the statements which he is about to make, and informed that any willful false statement will constitute perjury and will be punishable as such. He then shall be asked to state the facts required herein, and his answers, together with other information herein required, shall be recorded in his presence by a registrar if the registration is made pursuant to subsection (a) of section 94 of this title, or by a board member or the clerk in the presence of a board member if the registration is made pursuant to subsection (b) of section 94 of this title, in permanent writing or typewriting, in duplicate in the proper spaces on the registration cards as follows:

(c) (1) The surname of the applicant; (2) his Christian name or names; (3) his occupation; (4) the street or road and number, if any, of his residence; (5) if his residence is a portion only of the house, the location or number of the room or rooms, apartment, flat or floor which he occupies; (6) the date his residence in the district began; (7) the sex of the applicant; (8) his height, in feet and inches; (9) the color of his hair; (10) the color of his eyes; (11) the date of his birth; (12) the state or territory of the United States, or foreign country, where he was born; (13) the date when, place where, and the court by which, naturalized, and number of the naturalization certificate, or that he acquired citizenship by treaty or Act of Congress; (14) if not naturalized personally, the name of father, mother, or husband through whom naturalized; (15) the designation of the political party of the elector, if he desires to vote at primaries; and (16) the affidavit of registration, which shall be signed by the elector, attested by the signature of a board member or the clerk and dated by him. Each registration card shall also have a sufficient number of spaces thereon for the insertion of: (17) the election district and polling district in which the elector resides and to which he may from time to time remove, together with his street address in each such district, and the other data required to be given upon such removal; (18) the date of each election and primary at which the elector votes; and (19) the signature or initials of the election officer who enters the record of voting on the card.

(d) If the applicant for registration shall allege inability to sign his name, then he shall be required to present affidavits, subscribed in person before a member of the board or the clerk, of two electors who are personally acquainted with the applicant and who know his qualifications as an elector. Each of said two electors shall state in his affidavit the applicant's residence, his own residence, his knowledge of the statement made by the applicant under oath or affirmation in applying for registration, and his belief that they are true. Upon the filing of such affidavits, the applicant shall be permitted to subscribe to his oath or affirmation by making his mark, except that if the applicant's inability to sign his name is not due to some apparent physical infirmity, he shall first also be required to make and file with a member of the board or the clerk, an affidavit of his inability to sign his name. Every affidavit required because of an applicant's inability to sign his name shall be filed with the registration card of the person whose registration it affects.

(e) When the registration of an elector has been completed, the Board member, clerk, or registrar shall return the proof of United States citizenship to the elector, and shall deliver to the registered elector a Certificate of Registration, to which a picture of the elector is permanently attached. The Certificate of Registration, signed by the Board

member, clerk, or registrar, shall include the name and address of the elector, his signature or mark, birth date, election district and polling district, designation of party enrollment, if any, the serial number of his registration card, the fact of registration, and the date thereof.

(f) In carrying out the provisions of this section, the Chairman of each Board of Elections shall provide that the registration of the elector be conducted in the Spanish language for those applicants who are not fluent in the English language.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(8); June 26, 1968, No. 2252, § 5; April 7, 1970, No. 2689, § 5, Sess. L. 1970, p. 65; May 28, 1971, No. 3050, § 3, Sess. L. 1971, p. 178; July 12, 1978, No. 4156, § 6, Sess. L. 1978, p. 152; May 3, 1984, No. 4934, § 5(b)-(d), Sess. L. 1984, p. 112.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 951-18.

Amendments-1984. Subsection (a): Inserted "place or" preceding "places" in the first sentence, added the second and third sentences, and made other minor stylistic changes.

Subsection (e): Amended generally.

Subsection (f): Amended generally.

-1978. Subsection (a): Deleted the requirement of appearing before the board of elections and provided for the presentation of valid proof of U.S. citizenship.

Subsection (b): Added new provisions relating to recording of information under section 94 of this title.

-1971. Subsection (d): Added.

Subsections (e), (f): Former subsections (d) and (e) were redesignated (e), (f).

-1970. Subsection (d): Added new sentence at end.

-1968. Subsection (c)(17): Substituted "election" for "legislative" preceding "district and polling".

-1963. Subsection (d): Added to third sentence provision relating to filing in polling places in case where there is more than one polling place for a polling district.

Effective date of amendments-1984. Act May 3, 1984, No. 4934, § 17, Sess. L. 1984, p. 132, as amended by Act March 13, 1990, No. 5519, Sess. L. 1990, p. 30, provided: "The provisions of Title 18, section 100, subsection (e), Virgin Islands Code, as amended by this Act, pertaining to the inclusion of elector's photographs of Certificates of Registration, shall take effect 90 days after the date of enactment of this Act [May 3, 1984]; provided, however, all electors shall obtain a photo identification card by the election of 1992; and provided, further, that an elector may not be prohibited from voting if he is otherwise duly registered to vote. The Joint Board of Elections shall make provisions to register previously registered electors with valid certificates."

-1978. Act No. 4156 effective as of July 12, 1978, see note set out under section 91 of this title.

-1971. Acts May 28, 1971, No. 3050, No. 3058, § 7, Sess. L. 1971, p. 179, 218, provided: "This Act shall become effective as of September 1, 1971."

-1968. For effective date of amendment, see note set out under section 41 of this title.

Rules and regulations. Acts May 28, 1971, No. 3050, No. 3058, § 6, Sess. L. 1971, p. 179, 218, provided: "The Supervisor of Elections shall within 60 days from the effective date of this Act [Act eff. Sept. 1, 1971] issue rules and regulations to establish uniform procedures for the registration of persons pursuant to 18 V.I.C. § 100(d)."

§ 101. Applicants to register may be challenged; procedure; challenge affidavit

(a) Any person claiming the right to register may be challenged by any member of the board of elections or by a qualified elector of the election district. Any person so challenged shall answer the questions of the challenge affidavit, as herein specified, and, after his answers have been recorded, he shall subscribe to them by his signature, and swear to their truth.

(b) The affidavits of all persons so registered shall be filed with the duplicate registration affidavits.

(c) The challenge affidavit shall be, in form, prescribed by the Supervisor of Elections, and shall contain spaces for the following information: (1) Serial number; (2) place and date of execution; (3) full name of challenged applicant; (4) whether he is married or single; (5) if married, where his family resides; (6) if single, where his parents reside; (7) where applicant actually resided immediately before he took up his present residence; (8) his residence for the four months immediately preceding date of execution; (9) the name of his present employer; (10) the election district, and town and street and number, if any, of his place of business; (11) the name of his last employer, and the year in which he left his employ; (12) the election district, and town and street and number, if any, of said last employer's place of business; (13) sex of the applicant; (14) the date of his birth; and (15) such distinguishing marks, peculiarities, and further information for identification as the board shall prescribe.

(d) The challenged applicant shall produce at least one qualified elector of the polling district as a witness who shall make affidavit of his residence in the polling district. If such challenged applicant shall establish his right to be registered as required by this chapter, he shall be permitted to be registered.

(e) Any person making application to be enrolled as a member of a political party for the purpose of voting at primaries may be challenged by any qualified elector of the election district. Any person so challenged shall be enrolled as a member of such party if he shall certify in writing that he subscribes to the policies of the party; but if he is unable or unwilling to make such a certificate, he shall be denied enrollment as a member of such party, but he shall not be deemed to be guilty of any violation or attempted violation of any law by reason thereof. This subsection shall become effective after the general election in 1964.

(Added Feb. 20, 1963, No. 936, § 1; amended April 2, 1964, No. 1163, § 8, Sess. L. 1964, p. 165; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70.)

HISTORY

Source. Former Title 18 V.I.C. § 82.

Amendments-1968. Substituted "election district" for "legislative district".

-1964. Subsection (e): In second sentence, changed provision requiring enrollment if applicant provides certificate signed by Supervisor of Elections affirming that challenged person is enrolled member in accordance with section 302 of this title to provide for such enrollment on certificate by applicant that he subscribes to policies of the party.

Effective date of amendments-1968. See note under section 41 of this title.

§ 102. Incomplete or rejected application to be recorded

A member of the Board of Elections, the clerk, or the registrar shall record on registration cards the surname, Christian name or names, and street and number of residence of each person who applies for registration, whether or not the application is accepted. Whenever the applicant is rejected or the card is voided after a portion of the record has been filled in, the registration card or cards shall be marked "Applicant Rejected" or "card voided" and the Board member, clerk, or registrar shall note thereon the reason for the rejection, or the reason why the card is voided, and shall sign his name thereto. The Board member, clerk, or registrar shall forthwith personally notify the applicant if his application for registration is rejected. All such cards shall be preserved for a period of two years.

(Added Feb. 20, 1963, No. 936, § 1; amended May 3, 1984, No. 4934, § 5(e), Sess. L. 1984, p. 113.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 951-22.

Amendments-1984. Deleted "or" preceding "the clerk" and inserted "or the registrar" in the first and third sentences, rewrote the second sentence, and made other minor stylistic changes throughout the section.

§ 103. Appeal of rejected applicant

Any person whose application to be registered has been denied by a part of the board of elections, may file a petition with the board, not later than the twentieth day prior to an election or primary, setting forth the ground of his complaint under oath, and praying to be registered. The board shall fix a time for a public hearing thereof at its office not later than the fifteenth day prior to the election or primary. At the time so fixed, the board shall hear and dispose of the petition, having first given at least forty-eight hours' notice of the hearing to the board members who rejected the petitioner's application for registration. The board, if satisfied that the petitioner is entitled to be registered, shall direct a board member, or clerk, to register him in the usual manner, and shall amend accordingly the records affected, but any qualified elector of the election district may appear and show cause why the petitioner should not be registered.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 951-41.

Amendments-1968. Substituted "election" for "legislative" preceding "district" in the fourth sentence.

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 104. General register

The duplicate registration cards for the entire election district shall be placed in exact alphabetical order, and shall be kept at the office of the board in a place and in such manner as to be properly safeguarded. These cards shall constitute the general register of the election district, and shall not be removed from the office of the board except upon order of a court of record.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70.)

HISTORY

Amendments-1968. Substituted "election" for "legislative" preceding "district" in the first and second sentences.

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 105. District registers

(a) The original registration cards shall be filed by polling districts, and within each polling district, in exact alphabetical order. The cards so filed for each polling district shall constitute the district register for such district. The district register and any and all subdivisions thereof, shall be kept at the office of the board except when used at primaries and elections, as hereinafter provided, and shall be open to public inspection at all times, subject to reasonable safeguards, rules and regulations.

(b) If more than one polling place for a polling district is established under section 194 of this title, the district register for such district shall be subdivided into separate registers for each such polling place according to such allotment of the registered voters of the district among the polling places by area of residence, alphabetical position of surname or otherwise as the board of elections of the election district may prescribe. The names of the registered voters thus allotted to each polling place shall be arranged in the subdivision of the district register provided for such polling place in exact alphabetical order.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(9); April 2, 1964, No. 1163, § 9, Sess. L. 1964, p. 166; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70.)

HISTORY

Amendments-1968. Substituted "election district" for "legislative district".

-1964. Subsection (b): Provision for subdivision of district register according to names of registered voters for each polling place was changed to subdivision of the register into separate registers for each polling place according to allotment of voters among polling places made by board of elections.

-1963. Designated section as subsection (a), inserted after "district register" in third sentence the words "and any and all subdivisions thereof" and added subsection (b).

Effective date of amendments-1968. See note under section 41 of this title.

§ 106. Removal notices

The Supervisor of Elections shall provide and furnish to the boards removal notices, which they shall cause to be made available for the convenient use of registered electors. These notices shall be printed upon cards suitable for mailing, addressed to the office of the board, and shall contain spaces wherein the elector shall write - (1) the election district and the polling district, with the street or road and number, if any, of his present residence, and the specific location thereof, including the number of the room or rooms, apartment, flat, or floor, if his residence is a portion only of a house; (2) the election district and the polling district, with the street or road, and number, if any, of the address from which he was last registered; (3) the date of his removal to his present residence; and (4) space wherein the elector shall sign his name. The removal notice shall contain a statement that the elector may, by filling out properly and signing a removal notice and returning it to the office of the board of elections of the election district in which he is registered, secure the transfer of his registration to the polling district in which he resides, effective as to elections and primaries occurring at least 30 days after the date of his removal into the new district. Each removal notice shall contain a warning to the elector that the notice will not be accepted as an application for transfer of the elector's registration unless the signature thereon can be identified by the board as the elector's signature in the general and district registers. Each removal notice, to be effective, must be received at the office of the board at least 25 days prior to any primary or election, which warning shall also be contained on the removal notice.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70; July 12, 1978, No. 4156, § 7, Sess. L. 1978, p. 152; May 3, 1984, No. 4934, § 6(f), Sess. L. 1984, p. 113.)

HISTORY

Revision note. Subsection designation at the beginning of the section deleted for purposes of conformity with general V.I.C. style.

Amendments-1984. Substituted "25" for "30" preceding "days" in the fifth sentence.

-1978. Substituted "30 days" for "60 days" in the third sentence.

-1968. Substituted "election" for "legislative" wherever it appeared in the second sentence.

Effective date of amendments-1978. Act No. 4156 effective as of July 12, 1978, see note set out under section 91 of this title.

-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 107. Transfer of registration

(a) Upon receipt, not later than the twenty-fifth day next preceding any primary or election, of a signed removal notice properly filled out, or signed request containing the required information and setting forth a removal of residence to another location in the territory, the board shall cause the signature thereon to be compared with the signature on the registration card of the elector from whom the removal notice purports to come, and, if the signature shall appear authentic, shall enter the change of residence in the general and district registers, and, if the removal shall have been from one polling district to another in the same election district, shall transfer the registration card of the elector from the district register of the polling district of his previous residence, to the district register of the polling district of his new residence, and if the removal shall have been from one election district to another, shall remove the registration cards of the elector from the general and district registers and transmit them to the board of the election district in which the elector resides for insertion in the general register and appropriate district register of that district.

(b) Every elector who is recorded as having voted at a primary election shall be entitled to vote at the succeeding general election at the same polling place (or within the same polling district if such polling place shall have been changed between the time of the primary and the election) where he voted in such primary, notwithstanding any other provision of this Code; provided, however, that an elector may voluntarily transfer his registration pursuant to the provisions of this section.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70; July 14, 1972, No. 3250, § 1, Sess. L. 1972, p. 180; May 3, 1984, No. 4934, § 5(g), Sess. L. 1984, p. 113.)

HISTORY

Amendments-1984. Subsection (a): Substituted "twenty-fifth" for "thirtieth" preceding "day" at the beginning of the subsection.

-1972. Subsection (b): Amended generally.

-1968. Subsection (a): Substituted "election" for "legislative" wherever it appeared.

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 108. Change of enrollment of political party; cancellation of party enrollment

(a) At any time prior to the thirtieth day next preceding a primary, any person who desires to change the enrollment of his political designation, or who, although registered, has not hitherto enrolled as a member of a party, may appear before a member of the board or the clerk and state in writing, over his signature, the political party in which he desires to be enrolled, and that he subscribes to the policies of said party, and the board member or clerk shall cause the enrollment of the elector's political designation to be made or altered accordingly in the general and district registers. In such cases the signature of the elector shall be verified by comparison with his signature on the general

and district registers before the change of enrollment is made. When an elector has applied for a change in the enrollment of his political designation, as provided herein, the board member or clerk shall, upon request, stamp or mark the change so made on the card evidencing the elector's registration, issued to him pursuant to subsection (e) of section 100 of this title.

(b) At any time not later than the twentieth day preceding any primary, any qualified elector of the election district may petition the board to cancel the party enrollment of any registered elector of such district who has previously enrolled as a member of a party for the purpose of voting at primary elections, setting forth, under oath, that he has probable cause to believe that such elector is no longer a member of the party with which he has been enrolled, and also setting forth that due notice of the time and place when said petition would be presented had been given to the person so registered, at least 48 hours prior to presentation of the same, by delivering a copy of the petition to him personally or by leaving it with an adult member of the family with which he resides. If, at the hearing of any such petition, the elector against whom the petition is filed appears and certifies in writing that he subscribes to the policies of the party with which he is enrolled at the time of said hearing, the petition shall be refused, otherwise the party enrollment of such elector shall forthwith be cancelled. This subdivision shall become effective after the general election in 1964.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(10); April 2, 1964, No. 1163, § 10, Sess. L. 1964, p. 166; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; May 3, 1984, No. 4934, § 5(h), Sess. L. 1984, p. 113.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 951-28.

Amendments-1984. Subsection (b): Deleted "including any watcher" following "election district" in the first sentence.

-1968. Substituted "election district" for "legislative district".

-1964. Subsection (b): In second sentence, provision for certification of party membership by Supervisor of Elections changed to certification by elector that he subscribes to policies of party.

-1963. Subsection (a): Amended first sentence generally.

Effective date of amendments-1968. See note under section 41 of this title.

§ 109. Reports of change of voter status

(a) It shall be the duty of the Commissioner of Health or his designee, receiving original reports of deaths to notify the appropriate Board of Elections of the deaths of all persons of voting age who had been residents within the jurisdiction of such Board.

(b) It shall be the duty of every court which authorizes a legal change of name to notify the appropriate Board of Elections of such change of name of any person residing within the jurisdiction of such Board. Upon receipt of any such notice the Board shall ascertain whether the person so affected is registered and if so shall correct the elector's registration card accordingly.

(c) It shall be the duty of every court having jurisdiction over such matters to notify the appropriate Board of Elections of all convictions resulting in loss of voting privileges of persons residing within the jurisdiction of such Board.

(d) It shall be the duty of every court having jurisdiction over such matters to notify the appropriate Board of Elections upon the adjudication of any person of voting age as incompetent.

(e) The Supervisor of Elections shall make arrangements with the appropriate federal agency for the regular receipt by Boards of Elections of official information as to naturalization, convictions resulting in loss of voting privileges and permanent change of address of persons residing within the jurisdiction of such Boards.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70; May 3, 1984, No. 4934, § 5(i), Sess. L. 1984, p. 113.)

HISTORY

Amendments-1984. Amended section generally.

-1968. Subsection (a): Substituted "election" for "legislative" preceding "district" in the first sentence.

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 110. Check-ups of registers

(a) At least once in each four years, the board shall conduct a check-up of each registered elector in the election district by any method deemed necessary.

(b) For the purpose of facilitating any such check-up, the board may, when necessary, appoint special inspectors of registration, in number not exceeding double the number of polling districts which the board shall determine to canvass.

(c) Special inspectors shall have and may exercise the powers conferred by this chapter upon inspectors of registration. They shall be qualified electors of the election district, and shall be appointed without reference to residence in polling districts or to their political affiliations or beliefs.

(d) The board shall instruct each special inspector in his duties.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 951-30.

Amendments-1968. Subsection (a): Substituted "election" for "legislative" preceding "district".

Subsection (c): Substituted "election" for "legislative" preceding "district" in the second sentence.

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

Check-up of registered electors. Act May 22, 1967, No. 1988, as amended by Act December 20, 1967, No. 2087, provided that the Board of Elections in each Legislative District would conduct a check-up of each person listed as a registered elector in the Legislative District pursuant to the provisions of this section, and also provided the procedure for such canvass and check-up.

§ 111. Notification upon transfer in certain instances

Whenever the registration card of an elector is transferred from one register, either district or general, to another under circumstances other than those described and provided in sections 106 and 107 of this chapter, the board affecting such transfer shall give written notice thereof to the affected elector not later than twenty (20) days prior to the next election, whether it be a primary or general election.

(Added Aug. 11, 1972, No. 3291, § 1, Sess. L. 1972, p. 427.)

HISTORY

Retroactive effect. Act Aug. 11, 1972, No. 3291, § 2, Sess. L. 1972, p. 428, provided: "The provisions of section 1 of this Act [this section] shall be applied retroactively to any elector who did not participate in the 1972 primary whose registration card was transferred, as contemplated by such section, after the 1970 general election."

§ 112. Comparison and correction of registers

Commencing 45 days prior to each election and 30 days prior to each primary, the board shall compare and, if necessary, correct the general and district registers. In cases where the Board has made corrections in the register, it shall give written notice thereof to all affected electors not later than 20 days prior to the election and primary.

Not later than 20 days prior to the general election and until immediately following such election, the general and district registers shall be deemed closed for changes or additions, except by the Board in the case of mistakes in registration or clerical errors.

(Added Feb. 20, 1963, No. 936, § 1, Sess. L. 1963, p. 58; amended Oct. 4, 1968, No. 2342, § 1, Sess. L. 1968, Pt. II, p. 334; April 26, 1972, No. 3215, § 5, Sess. L. 1972, p. 77.)

HISTORY

Amendments-1972. In first paragraph, substituted "45 days prior to each election and 30 days prior to each primary" for "30 days prior to each election and primary".

-1968. Added last paragraph.

§ 113. Petition to strike off names

At any time not later than the twentieth day preceding any election or primary, any qualified elector of an election district, including any watcher and any inspector of registration, may petition the board of elections thereof to cancel the registration of any registered elector of such district, setting forth, under oath, supported by the affidavits of at least two adult persons, sufficient grounds for such cancellation, and also setting forth

that due notice of the time and place when said petition would be presented had been given to the person so registered, personally, at least 48 hours prior to the presentation of the same, or that he could not be found at the place given in the district register as his residence and that the person in charge thereof, to be mentioned by name in said petition, had declared that he or she was well acquainted with the names of all persons residing at the address given as such residence and that the person so registered had never been or was no longer one of them, and that no such person is residing in the district, whereupon the board shall forthwith cancel the registration of such elector, and amend accordingly the general and district registers and the other records affected, unless the person so registered shall appear and show cause why the same should not be done.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 951-34.

Revision note. Substituted "an" for "a" preceding "election district" in order to correct a grammatical error. See § 14 of Title 1.

Amendments-1968. Substituted "election" for "legislative" following "qualified elector of".

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 114. Delivery of district registers to election officers

(a) Not later than noon of the third day preceding an election or primary, the board shall have the district register accurately corrected to date, for each polling district, and, if more than one polling place has been established for a polling district under section 194 of this title, for each such polling place, and shall deliver the same to the judge of election for use on election day, as provided by section 553 of this title. The board shall not deliver the registration card, for use at the polls on election day, of any person who has removed from the election district. The board shall withdraw from the district registers the cards of all such persons before the registers are so delivered.

(b) Each district register, and, if it has been subdivided in the manner provided by subsection (b) of section 105 of this title, each subdivision thereof, when delivered as provided by subsection (a) of this section shall be contained in a suitable binder provided by the Supervisor of Elections, so constructed and locked that the name, address, voting record, and other data on each card may be visible, and that entries may be made on each card, but that the cards cannot be removed by the election officers. Such binders shall have printed or written thereon the words "District Register of Voters" and the name of the polling district, and also, if a binder contains only a subdivision of a district register, the designation of the polling place.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(11), (12); June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70.)

HISTORY

Amendments-1968. Subsection (a): Substituted "election" for "legislative" preceding "district" in the second sentence.

-1963. Subsection (a): Inserted provision in first sentence relating to more than one polling place and deleted second and third sentences, which related to disposition of registration cards.

Subsection (b): Inserted provision relating to subdivision of the register.

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 115. Examination of district registers

(a) Immediately following each election or primary, the board of elections shall cause each district register to be examined.

(b) In the case of any elector whom the election officers shall have recorded as removed, deceased, or challenged and prevented from voting, the board shall ascertain the facts and shall correct the general and district registers in accordance with the procedure outlined in section 110 of this title.

(c) Whenever the registration card of any registered elector shall have been entirely filled up so that the entries required to be made thereon by this chapter can no longer be made, the board shall have prepared and attached to such registration cards in each register a supplemental card. Each supplemental card shall be printed in a color different from the registration cards. It shall have the same serial number as the registration card, followed by the letter "A", "B", et cetera, according to the number of supplemental cards attached to each registration card. Each supplemental card shall have space thereon for the entry of the surname of the registered elector, his Christian name or names, the street and number of his residence, the polling district in which he resides and to which he may from time to time remove; together with his street address in each such district, and the other data required to be given upon such removal, the date of each election and primary at which the elector votes, and the signature or initials of the election officer who enters the record of voting on the card. Each supplemental card shall be attached to the registration card to which it relates, by permanent fasteners, in such a manner that the contents of the registration card may be examined and the entries required by this chapter may be made on the supplemental card. Whenever supplemental cards are attached to the registration card of any elector, the registration card shall be stamped with the words "Supplemental cards attached", together with the date thereof.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(7).)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, 951-37.

Amendments-1963. Deleted reference to report of indications of fraud from catchline.

§ 116. Repealed. Act Sept. 2, 1994, No. 6009, § 1, Sess. L. 1994, p. 161.

HISTORY

Former § 116, derived from Act March 15, 1966, No. 1618, Sess. L. 1966, p. 87, was related to rules and regulations of the school health program.

Effective date of repeal and reinstatement of registration rolls. Act Sept. 2, 1994, No. 6009, § 1, Sess. L. 1994, p. 161, provided that this section would be repealed effective Jan. 1, 1993, and that all persons whose names have been removed from the registration rolls since Jan. 1, 1993, will be restored thereto.

§ 117. Cancellation, removal, and preservation of registration cards

Whenever the registration of an elector is cancelled for any cause, the board of elections shall mark on the registration cards of the elector the word "cancelled" and the date and cause of cancellation, and shall remove them from the general and district registers, but each such card shall be kept for five years, after which the board may destroy it.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 951-39.

§ 118. Correction by board of errors in cancellation of registration

Whenever the registration of an elector has been cancelled through error, such elector may petition the board of elections for the reinstatement of this registration not later than the tenth day preceding any primary or election, and after a hearing on said application, if error on the part of the board is proved, the board shall reinstate the registration of such elector.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 951-40.

§ 119. Appeals to court; time of hearing; notice; postponement; hearing; decision of court; costs and fees

(a) Upon the exhaustion of any administrative remedies provided by this title, any person whose claim for registration has been denied by a board of elections, or whose name, although previously registered, has been removed and not restored by a board upon petition filed for that purpose as herein provided, or whose registration or party enrollment has been cancelled for any cause, or any qualified elector of any election district whose rights are impaired by any general order made by a board (not including refusals to remove names upon any petition of any kind aforesaid), may file an appeal with the District Court not later than the tenth day preceding any election or primary, setting forth why he feels that an injustice has been done, and praying for such order as will give him relief. Thereupon the judge of the district court shall fix a time and place

for hearing the matter in dispute, of which notice shall be served, with a copy of said appeal, by the appellant, upon the Attorney General of the Virgin Islands and upon any elector, or his attorney, who opposed the contention of the appellant before the board, at least 48 hours before such matter may be reviewed by the court. Proof of notice or the waiver thereof must be filed therein.

(b) The judge of the district court may enlarge the time of notice or postpone such hearing as may be reasonable with due regard for the time remaining before the succeeding election or primary. At the time so fixed, the court shall hear all the witnesses and other evidence that may be offered, unless the issue can be decided in some other manner by agreement of the parties concerned.

(c) If, after any such public hearing, the court shall find that an injustice has been done, it may reverse or alter the decision of the board and modify any order made by it accordingly, and, if necessary, issue its mandate to the election officers of any polling district to permit the appellant to vote at any designated election or primary although his name may not have been entered in or restored to the district register of such district. If the appellant shall not satisfy the court that an injustice has been done, the decision of the board shall be affirmed.

(d) The court may compel the appellant, or any opposing party other than the board, or, in proper cases, the Government, to pay all the witness fees and other legal costs of such appeal, which may be assessed by the clerk in the usual manner, but in all cases where the appeal is sustained by the court, the costs advanced by the appellant shall be ordered refunded.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 951-41.

Amendments-1968. Subsection (a): Substituted "election" for "legislative" preceding "district" in the first sentence.

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 120. Production of documents, etc., at appeals

At the written request of any person taking an appeal from any action or order of a board as aforesaid, the board shall produce at the hearing thereof any petition, register or other record in its custody relevant to the issue involved.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 951-42.

Chapter 7. Election Officers

HISTORY

Reapportionment of Legislature; provisional repeal of certain laws. Establishment of Commission on Reapportionment of the Legislature for purpose of preparing and submitting to Legislature, by January 9, 1968, a recommended plan for reapportionment of the Legislature, and provisional repeal of all provisions of this title which refer to legislative districts of St. Thomas, St. Croix, and St. John, see Acts Feb. 15, 1967, No. 1850; Sept. 18, 1967, No. 2054, set out in note preceding chapter 1 of this title.

SECTION ANALYSIS

- 151. Appointment of election officers and clerks; vacancies; conduct of elections.
- 152. Qualifications of election officers and clerks.
- 153. Election officers and clerks to be sworn.
- 154. Oath of election officers.
- 155, 156. [Repealed.]
- 157. Power of election officers to administer oaths.
- 158. Compensation of election officers and clerks.
- 159. Immunity from arrest.

§ 151. Appointment of election officers and clerks; vacancies; conduct of elections

(a) The board of elections in each legislative district shall, not later than 20 days prior to the day on which a primary or election is to be held, appoint, as election officers, one Judge of Election and one inspector of election for each polling district in the district. The board shall also appoint two clerks of election for each polling district. If more than one polling place for a polling district is established under section 194 of this title, the board shall appoint one Judge of Election and one inspector of election as election officers for each polling place for such polling district, and two clerks of election for each polling place. At least one of the election officers and clerks appointed for each polling place pursuant to this section shall be fluent in both Spanish and English. The Chairmen of political parties in each legislative district shall have the right to submit to the board their nominations therefor.

(b) The Board of Elections in each legislative district shall appoint in addition to the officers and clerks authorized to be appointed pursuant to subsection (a) of this section, one voting machine monitor for each voting machine within each polling place.

(c) If, at any time prior to the day of any primary or election, a vacancy occurs by reason of the disqualification, removal, resignation or death of an election officer, clerk or voting machine monitor, or from any other cause, the board shall fill the vacancy by appointment of another person who has the qualifications prescribed in this chapter and

who is a member of the same political party as that of the appointee whose place he is filling. The chairman of such party in the legislative district shall have the right, prior to such appointment, to submit to the board his nomination therefor. If, on or before the day of any primary or general election, a temporary vacancy occurs by reason of absence, temporary illness or other cause, the board may, in order to discharge any of the functions involved, make a temporary appointment as acting election officer, clerk or voting machine monitor, appointing another person with the prescribed qualifications.

(d) All primaries and elections in each polling district shall be conducted by the election officers appointed therefor under this section, and the election officers and clerks shall, in all matters appertaining thereto, be under the supervision of, and be responsible to, the board which appointed them.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(13); June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70; April 2, 1982, No. 4692, § 3, Sess. L. 1982, p. 54; May 3, 1984, No. 4934, § 6(a)-(c), Sess. L. 1984, p. 115; Oct. 21, 1988, No. 5367, § 3(1)-(4), Sess. L. 1988, p. 252.)

HISTORY

Source. Florida law, F.S.A. § 102.012; Purdon's Penn. Statutes, Title 25, §§ 2671, 2675.

Amendments-1988. Subsection (a): Substituted "one inspector" for "two inspectors" following "Judge of Election and" in the first and third sentences.

Subsection (b): Amended generally.

Subsection (c): Substituted "clerk or voting machine monitor" for "or clerk" following "election officer" in the first and third sentences and deleted "and a member of the same political party as that of the appointee, whose place is temporarily vacant, unless a qualified person of the same political party is unavailable in which case the board shall fill the vacancy with any qualified person" following "qualifications" in the third sentence.

-1984. Subsection (a): Substituted "legislative" for "election" preceding "district shall, not later than" in the first sentence and "20" for "10" thereafter, deleted "such" following "election for each" in the third sentence, substituted "legislative" for "election" preceding "district shall have the right" in the fifth sentence and deleted "prior to the making of such appointments" thereafter, deleted the sixth sentence, and made other minor stylistic changes throughout the subsection.

Subsection (b): Deleted "and the two clerks" following "inspectors", "for each polling district and the two inspectors and the two clerks of election" preceding "for each polling place" and "for a polling district" thereafter, and made other minor stylistic changes.

Subsection (c): Substituted "legislative" for "election" preceding "district" in the second sentence, added "unless a qualified person of the same political party is unavailable in which case the board shall fill the vacancy with any qualified person" following "vacant" in the third sentence, and made other minor stylistic changes throughout the subsection.

-1982. Subsection (a): Added the fourth sentence.

-1968. Subsection (a): Substituted "election" for "legislative" following "elections in each" in the first sentence and "parties in each" in the fifth sentence.

Subsection (c): Substituted "election" for "legislative" preceding "district" in the second sentence.

-1963. Subsection (a): Inserted third sentence relating to cases of more than one polling place in district, and fifth sentence relating to nominations.

Subsection (b): Added reference to inspectors and clerks.

Subsection (c): Added third sentence relating to temporary vacancy.

Effective date of amendments-1988. Act Oct. 21, 1988, No. 5367, § 8(a), Sess. L. 1988, p. 254, provided that notwithstanding section 6 of this title, prohibiting amendments to this title 6 months preceding the date of a general election, section 3(1)-(4) of the act, which amended this section, was to take effect upon enactment, Oct. 21, 1988.

-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 152. Qualifications of election officers and clerks

(a) Election officers and clerks shall be qualified registered electors of the election district in which they are appointed.

(b) No election officer or clerk shall be eligible for any public office to be voted for at a primary or election at which he shall serve.

(Added Feb. 20, 1963, No. 936, § 1; amended Aug. 13, 1966, No. 1805, § 4, Sess. L. 1966, p. 444; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2672.

Amendments-1968. Substituted "election district" for "legislative district".

-1966. Subsection (a): Deleted provision requiring residence in polling district.

Effective date of amendments-1968. See note under section 41 of this title.

§ 153. Election officers and clerks to be sworn

(a) Pursuant to section 151, subsection (a) of this title, all judges, inspectors, voting machine monitors, and clerks of election shall be duly sworn by the Chairman of the Board of Elections of the district in which they are to serve, or, in his absence, by another member of the Board. Each of them shall forthwith sign in duplicate the oath taken by him upon forms to be furnished by the Board, and the same shall be attested by the officer who administered the oath.

(b) A person who is appointed to fill a vacancy or a temporary vacancy pursuant to section 151, subsection (c) shall either be duly sworn as prescribed by subsection (a) of this section or shall submit a sworn affidavit, duly notarized, to the Board of Elections in the polling district in which the vacancy exists.

(Added Feb. 20, 1963, No. 936, § 1)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2676.

Amendments-1988. Amended section generally.

Effective date of amendments-1988. Act Oct. 21, 1988, No. 5367, § 8(a), Sess. L. 1988, p. 254, provided that notwithstanding section 6 of this title, prohibiting amendments to this title 6 months preceding the date of a general election, section 3(5) of the act, which amended this section, was to take effect upon enactment, Oct. 21, 1988.

§ 154. Oath of election officers

The following shall be the form of the oath of each judge, inspector, voting machine monitor or clerk of election

I, _____, do solemnly swear (or affirm) that I will as judge, inspector, voting machine monitor or clerk duly attend the ensuing election (or primary) during the continuance thereof in the polling district for which I was appointed, and in cooperation with other election officials, faithfully carry out the same; that I will not give my consent to the admission of any person to vote, except such as I firmly believe to be registered and entitled to vote at such election (or primary) according to the provisions of the laws of the Virgin Islands and the laws applicable to the Virgin Islands, and that I will use my best endeavors to prevent fraud, deceit or abuse in carrying out the same, and that I will make a true and perfect return of the said election (or primary) and will at all times impartially and faithfully perform my duties respecting the same, to the best of my judgment and ability; and that I am not directly or indirectly interested in any bet or wager on the result of this election (or primary).

(Added Feb. 20, 1963, No. 936, § 1; amended May 3, 1984, No. 4934, § 6(d), Sess. L. 1984, p. 116; Oct. 21, 1988, No. 5367, § 3(6), Sess. L. 1988, p. 253.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2677.

Amendments-1988. Inserted "voting machine monitor" following "inspector" in the introductory paragraph and in the text of the oath.

-1984. Deleted "judges of" preceding "election" in the section catchline and inserted "officers" thereafter, "inspector or clerk" following "judge" in the first paragraph and "inspector, or clerk" following "judge" in the second paragraph and substituted "duties" for "duty" preceding "respecting" and "other election officials" for "the inspectors" preceding "faithfully carry" in that paragraph and "out" for "on" thereafter, and made other minor stylistic changes throughout the section.

Effective date of amendments-1988. Act Oct. 21, 1988, No. 5367, § 8(a), Sess. L. 1988, p. 254, provided that notwithstanding section 6 of this title, prohibiting amendments to this title 6 months preceding the date of a general election, section 3(6) of the act, which amended this section, was to take effect upon enactment, Oct. 21, 1988.

§ 155, 156. Repealed. May 3, 1984, No. 4934, § 6(d), Sess. L. 1984, p. 116.

HISTORY

Former sections 155 and 156, which were derived from Act Feb. 20, 1963, No. 936, § 1, related to oaths of inspectors and clerks of election.

For current provisions relating to oaths of election officers generally, see section 154 of this title.

§ 157. Power of election officers to administer oaths

The judge and inspectors of election may administer oaths or affirmations to any person claiming the right to vote, or to his witnesses, or in any matter or thing required to be done or inquired into by them under this title.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2681.

§ 158. Compensation of election officers and clerks

(a) For each primary or election, election officers and clerks shall receive compensation from the board of elections which appointed them, as follows:

1. Each judge of election, \$100.
2. Each inspector of election, \$60.
3. Each clerk of election, \$60.
4. Each voting machine monitor, \$60.

(b) Each of the election officials whose compensation is provided for in subsection (a) shall be entitled to compensation in the amount of \$10 for each instructional meeting which they attend, retroactive to the general election held in 1964.

(c) In addition to the compensation provided by subsection (a) of this section, each election official shall be compensated an additional \$10 for each shift worked which shift commences on or after 6:00 p.m.

(Added Feb. 20, 1963, No. 936, § 1; amended April 21, 1965, No. 1437, § 3, Sess. L. 1965, Pt. I, p. 199; amended Oct. 25, 1978, No. 4238, §§ 2, 3, Sess. L. 1978, p. 271; Oct. 21, 1988, No. 5367, § 3(7), Sess. L. 1988, p. 253; Jan. 3, 1991, No. 5691, § 4, Sess. L. 1990, p. 584.)

HISTORY

Amendments-1990. Subsection (a): Substituted "\$100" for "\$50" in item (1) and "\$60" for "\$40" in items (2)-(4).

-1988. Subsection (a): Added item 4.

-1978. Subsection (a): Raised compensation for election officers and clerks.

Subsection (c): Added.

-1965. Designated then existing section as subsection (a); in subsection (a), as so designated, increased compensation of judges of election from \$20 to \$40, of inspectors of election from \$15 to \$30, and of clerks of election from \$10 to \$20; and added subsection (b).

Effective date of amendments-1988. Act Oct. 21, 1988, No. 5367, § 8(a), Sess. L. 1988, p. 254, provided that notwithstanding section 6 of this title, prohibiting amendments to this title 6

months preceding the date of a general election, section 3(7) of the act, which amended this section, was to take effect upon enactment, Oct. 21, 1988.

-1978. Act Oct. 25, 1978, No. 4238, § 4, Sess. L. 1978, p. 271, provided: "This Act [which amended subsec. (a) and added subsec. (c) to this section and amended section 41(g) of this title] shall become effective immediately notwithstanding any other provision of law to the contrary."

§ 159. Immunity from arrest

Judges, inspectors, and clerks of election shall be privileged from arrest upon days of primaries and elections, and while engaged in making up and transmitting returns, except upon the warrant of a court of record, or judge thereof, for an election fraud, for felony, or for wanton breach of the peace.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2683.

Chapter 9. Polling Districts and Places; Booths

HISTORY

Reapportionment of Legislature; provisional repeal of certain laws. Establishment of Commission on Reapportionment of the Legislature for purpose of preparing and submitting to Legislature, by January 9, 1968, a recommended plan for reapportionment of the Legislature, and provisional repeal of all provisions of this title which refer to legislative districts of St. Thomas, St. Croix, and St. John, see Acts Feb. 15, 1967, No. 1850; Sept. 18, 1967, No. 2054, set out in note preceding chapter 1 of this title.

SECTION ANALYSIS

- 191. Polling districts for the Island of St. Thomas and adjacent islets and cays.
- 192. Polling districts for the Island of St. John and adjacent islets and cays.
- 193. Polling districts for the Island of St. Croix and adjacent islets and cays.
- 194. Polling places to be fixed by election boards.
- 195. Same; use of public buildings.
- 196. Equipment and arrangement of polling places; guard rail; number of booths.
- 197. Compensation for rent and light.

§ 191. Polling districts for the Island of St. Thomas and adjacent islets and cays

There shall be seven polling districts for the Island of St. Thomas and adjacent islets and cays, as follows:

(1) The Eastern polling district of King's quarter, comprising that portion of the King's quarter of the Town of Charlotte Amalie bounded on the south by the sea, on the east and north by the territorial limits of the Town of Charlotte Amalie, and on the west by a line commencing at the intersection of said northern territorial limits with the center line of Third Avenue projected northwardly thereto and extending thence southwardly along the said projected center line of Third Avenue and the actual center line of Third Avenue to C Street, thence westwardly along the center line of C Street of Bjerre Gade, and thence southwardly, in a straight line, along the center line of Bjerre Gade and said line projected, to the sea, except that all parts and portions of Hospital Ground and Hospital Line shall be in the Western polling district of King's quarter;

(2) The Western polling district of King's quarter, comprising that portion of the King's quarter of the Town of Charlotte Amalie not included in the Eastern polling district of King's quarter, and all parts and portions of Hospital Ground and Hospital Line;

(3) The Queen's quarter polling district, comprising the Queen's quarter of the Town of Charlotte Amalie:

(4) The Savan polling district of Crown Prince's quarter, comprising that portion of the Crown Prince's quarter of the Town of Charlotte Amalie bounded on the south by the sea, on the east by Lange's Gut, on the north by the territorial limits of the Town of Charlotte Amalie, and on the west by a line commencing at the intersection of said

northern territorial limits with the center line of Nye Nordsidevej projected northwardly thereto and extending thence southwardly along the said projected center line of Nye Nordsidevej and the actual center line of Nye Nordsidevej to Kronprindsen's Gade, thence eastwardly along the center line of Kronprindsen's Gade, to the gutter immediately east of property No. 55 Kronprindsen's Gade, and thence southwardly along the center line of the said gutter to the sea;

(5) The Altona polling district of Crown Prince's quarter comprising that portion of Crown Prince's quarter of the Town of Charlotte Amalie not included in the Savan polling district of Crown Prince's quarter with the exception of that part of Solberg which lies within Crown Prince's quarter;

(6) The Eastern Country polling district, comprising the Great Northside, New Frenchman's Bay, Red Hook and East End quarters of the island of Saint Thomas, Hans Lollík, Little Hans Lollík, Great St. James, Little St. James and Capella Islands, Thatch Cay and adjacent islets and cays except that all parts and portions of Hospital Ground and Hospital Line shall be in the Western polling district of King's quarter;

(7) The Western Country polling district, comprising Little Northside quarter, that part of Solberg which lies within Crown Prince's quarter, Southside and West End quarters of the Islands of St. Thomas, Hassel, Water, Savanna, Inner Brass and Outer Brass Islands, and adjacent islets and cays.

(Added Feb. 20, 1963, No. 936, § 1; amended Aug. 13, 1966, No. 1805, § 5(a), (b), Sess. L. 1966, p. 444; June 26, 1968, No. 2253, § 2(b), Sess. L. 1968, Pt. II, p. 74; May 16, 1974, No. 3565, § 10, Sess. L. 1974, p. 97.)

HISTORY

Source. Former Title 18 V.I.C. § 211(a), (d), as amended by Act May 16, 1957, No. 160, § 51, Sess. L. 1957, p. 36; June 2, 1959, No. 421, § 1, Sess. L. 1959, p. 25; June 16, 1960, No. 625, Sess. L. 1960, p. 150; March 15, 1962, No. 843, § 1, Sess. L. 1962, p. 81; Oct. 11, 1962, No. 919, § 2, Sess. L. 1962, p. 267.

Amendments-1974. Paragraph (1): Added exception that Hospital Ground and Hospital Line shall be in Western polling district.

Paragraph (2): Included all parts and portions of Hospital Ground and Hospital Line.

Paragraph (3): Added exception that Hospital Ground and Hospital Line shall be in Western polling district.

-1968. Substituted present catchline for former "Polling districts in Legislative District of Saint Thomas" and rephrased introductory sentence.

-1966. Paragraph (5): Excepted that part of Solberg within Crown Prince's quarter.

Paragraph (7): Added that part of Solberg within Crown Prince's quarter.

Effective date of amendments-1968. See note under section 1 of this title.

§ 192. Polling districts for the Island of St. John and adjacent islets and cays

There shall be two polling districts for the Island of St. John and adjacent islets and cays, as follows:

(1) The Cruz Bay polling district, comprising the Cruz Bay and Reef Bay quarters of the Island of Saint John, Grass, Mingo, Lovango and Congo Cays and adjacent islets and cays; and

(2) The Coral Bay polling district, comprising the Coral Bay, East End and Maho Bay quarters of the Island of Saint John, Flanagan Island and adjacent islets and cays.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, No. 2253, § 2(c), Sess. L. 1968, Pt. II, p. 74.)

HISTORY

Source. Former Title 18 V.I.C. § 211(b), as amended by Act May 16, 1957, No. 160, § 51, Sess. L. 1957, p. 36; June 2, 1959, No. 421, § 1, Sess. L. 1959, p. 25; Oct. 11, 1962, No. 919, § 1, Sess. L. 1962, p. 267.

Amendments-1968. Substituted present catchline for former "Polling districts in Legislative District of Saint John" and rephrased introductory sentence.

Effective date of amendments-1968. See note under section 1 of this title.

§ 193. Polling districts for the Island of St. Croix and adjacent islets and cays

There shall be five polling districts for the Island of St. Croix and adjacent islets and cays, as follows:

(1) The Eastern polling district of Christiansted Town, comprising that portion of the Town of Christiansted bounded on the north by the sea, on the east and south by the territorial limits of the Town of Christiansted, and on the west by a line commencing at the intersection of said southern territorial limits with the center line of Prince's Street and extending thence northwardly along the center line of Prince's Street to the Water Gut and thence eastwardly along the center line of the Water Gut to the Sea;

(2) The Western polling district of Christiansted Town, comprising that portion of the Town of Christiansted not included in the Eastern polling district of Christiansted Town;

(3) The Christiansted Country polling district, comprising Northside B, King's, Queen's, Company, East End A and East End B quarters of the Island of Saint Croix and Buck Island;

(4) The Frederiksted Town polling district, comprising the town of Frederiksted; and

(5) The Frederiksted Country polling district, comprising Northside A, Prince's and West End quarters of the Island of Saint Croix.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, No. 2253, § 2(d), Sess. L. 1968, Pt. II, p. 74.)

HISTORY

Source. Former Title 18 V.I.C. § 211(c), (d), as amended by Act May 16, 1957, No. 160, § 51, Sess. L. 1957, p. 36; March 15, 1962, No. 843, § 2, Sess. L. 1962, p. 81; Oct. 11, 1962, No. 919, § 2, Sess. L. 1962, p. 267.

Amendments-1968. Substituted present catchline for former "Polling districts in Legislative District of Saint Croix" and rephrased introductory sentence.

Effective date of amendments-1968. See note under section 1 of this title.

§ 194. Polling places to be fixed by election boards

(a) The board of elections in each election district shall select and fix as many polling places for each polling district under its jurisdiction, herein or hereafter established as it may deem necessary. No more than 800 electors shall be allotted to any one polling place. For the Island of St. Thomas and St. Croix, the polling places for any polling district may be located outside such polling district if convenience of the voter will be promoted thereby.

(b) In order to facilitate the widest possible voter participation, and to minimize confusion as to the location of polling places, the board of elections of each election district shall provide for the utilization of the same polling places in use in 1968 in the respective polling districts for both the primary and general elections of 1970, so that all qualified electors who voted in 1968 may be able to vote at the same polling places in the 1970 primary and general elections.

(Added Feb. 20, 1963, No. 936, § 1; amended April 2, 1964, No. 1163, § 26, Sess. L. 1964, p. 170; April 27, 1964, No. 1208, § 2, Sess. L. 1964, p. 310; Aug. 13, 1966, No. 1805, § 6, Sess. L. 1966, p. 444; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; No. 2253, § 2(e), Sess. L. 1968, Pt. II, p. 74; Feb. 12, 1969, No. 2419, § 18, Sess. L. 1969, p. 74.)

HISTORY

Source. Former Title 18 V.I.C. § 211, as amended by Act May 16, 1957, No. 160, § 51, Sess. L. 1957, p. 36; June 2, 1959, No. 421, §§ 1, 3, Sess. L. 1959, p. 25; June 16, 1960, No. 625, Sess. L. 1960, p. 150; March 15, 1962, No. 843, §§ 1, 2, Sess. L. 1962, p. 81; Oct. 11, 1962, No. 919, Sess. L. 1962, p. 267.

Amendments-1969. Original section designated as subsection (a) and subsection (b) added.

-1968. Act June 26, 1968, No. 2252, substituted "election district" for "legislative district". Act June 26, 1968, No. 2253, substituted "For the Island of St. Thomas and St. Croix" for "In the Legislative District of Saint Thomas and Saint Croix".

-1966. Substituted 800 for 500 electors allotted to any polling place in second sentence.

-1964. Act No. 1163 added sentence after first sentence relating to number of electors allotted to one polling place. Act No. 1208 corrected section reference in section 26 of Act No. 1163.

Effective date of amendments-1968. For effective date of Act June 26, 1968, § 2252, see note under section 41 of this title and for effective date of Act June 26, 1968, § 2253, see note under section 1 of this title.

Application to primary and general elections of 1970. Act April 7, 1970, No. 2689, § 3, provided: "Section 3. The provisions of subsection (a) of section 194 of chapter 9 of Title 18, Virgin Islands Code, limiting to 800 the number of electors that may be allotted to any one polling place shall not apply to the primary and general elections of 1970."

ANNOTATIONS

1. CONSTRUCTION.

Word "shall" in election statutes was not clear manifestation of legislative mandatory intent, such that violations of Virgin Islands election laws that Senator alleged warranted new election, since statutes did not go to election's merits, were intended merely to regulate election's conduct, did not provide that failure to adhere rendered election void, and none of election's irregularities resulted from fraud. *Bryan v. Todman*, 28 V.I. 42 (Terr. Ct. St. C. 1992).

§ 195. Same; use of public buildings

(a) In selecting polling places, each board of elections shall, whenever possible and practicable, select schoolhouses or other public, civic, or fraternal buildings for that purpose. Subject to the provisions of subsection (b) of this section, the Commissioner of Education, or other proper official or officials, shall, upon request of the board, make arrangements for the use of school or other public property for polling places.

(b) Schools or other public property shall be so used for polling places as not to interfere with the use thereof for the purposes for which they are primarily intended.
(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2727(a).

§ 196. Equipment and arrangement of polling places; guard rail; number of booths

(a) Each board of elections shall cause all rooms used as polling places to be suitably provided with light and with a sufficient number of voting compartments or booths with proper supplies, in which electors may conveniently mark their ballots, with a curtain, screen or door in the upper part of the front of each compartment or booth so that in the marking thereof they may be screened from the observation of others. Each polling place shall consist of a single room, every part of which is within the unobstructed view of those present therein, and shall have a guard rail or barrier enclosing the inner portion of such room, which guard rail or barrier shall be constructed and placed at the express direction of the chairman of the board of elections in the election district so that only such persons as are inside the rail or barrier can approach within six feet of the ballot box and voting compartments or booths. The ballot box and voting compartments or booths shall be so arranged in the voting room within the enclosed space as to be in full view of those persons in the room outside such guard rail or barrier.

(b) The joint boards of elections shall insure that the number of electronic voting machines to be set up at each polling place shall be not less than one for every 500 voters or fraction thereof.

(c) The board may make such arrangements as it deems proper for the storage of election equipment in the various polling districts of its legislative district at such times of the year when it will not be used for election purposes, and may fix reasonable compensation therefor.

(Added Feb. 20, 1963, No. 936, § 1; amended May 29, 1968, No. 2214, § 2, Sess. L. 1968, Pt. II, p. 20; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; March 11, 1974, No. 3534, Sess. L. 1974, p. 34; May 3, 1984, No. 4934, § 7, Sess. L. 1984, p. 116; Sept. 28, 1987, No. 5281, § 6, Sess. L. 1987, p. 135; June 13, 1994, No. 5991, § 8, Sess. L. 1994, p. 93.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2730; former Title 18 V.I.C. § 234.

Amendments-1994. Subsection (b): Substituted "500" for "300" preceding "voters".

-1987. Subsection (b): Substituted "300" for "500" preceding "voters".

-1984. Subsection (b): Amended generally.

-1974. Subsection (b): Substituted "100 voters" for "200 voters".

-1968. Number 2214 rephrased second sentence and added reference to chairman of board of elections.

Number 2252 substituted "election district" for "legislative district".

Effective date of amendments-1968. See note under section 41 of this title.

ANNOTATIONS

1. CONSTRUCTION.

Word "shall" in election statutes was not clear manifestation of legislative mandatory intent, such that violations of Virgin Islands election laws that Senator alleged warranted new election, since statutes did not go to election's merits, were intended merely to regulate election's conduct, did not provide that failure to adhere rendered election void, and none of election's irregularities resulted from fraud. *Bryan v. Todman*, 28 V.I. 42 (Terr. Ct. St. C. 1992).

§ 197. Compensation for rent and light

Each board of elections shall fix the compensation for rent, light and janitorial services to be paid for the use of polling places for primaries and elections, within the legislative district, but no compensation for rent or light shall be paid in the case of schoolhouses or other public buildings used as polling places.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2731.

Chapter 11. Dates of Elections and Primaries

HISTORY

Reapportionment of Legislature; provisional repeal of certain laws. Establishment of Commission on Reapportionment of the Legislature for purpose of preparing and submitting to Legislature, by January 9, 1968, a recommended plan for reapportionment of the Legislature, and provisional repeal of all provisions of this title which refer to legislative districts of St. Thomas, St. Croix, and St. John, see Acts Feb. 15, 1967, No. 1850; Sept. 18, 1967, No. 2054, set out in note preceding chapter 1 of this title.

SECTION ANALYSIS

231. General elections.

232. Primary elections.

§ 231. General elections

General elections shall be held in the Virgin Islands on the first Tuesday after the first Monday in November, beginning with the year 1964, and every two years thereafter, for the purpose of choosing members of the legislature and such other public officers as are required by law to be elected.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Former Title 18 V.I.C. § 1; Revised Organic Act of the Virgin Islands, app. July 22, 1954, § 10.

CROSS REFERENCES

For provisions of the Organic Act relating to time of elections, see section 10 of the Revised Organic Act of the Virgin Islands, app. July 22, 1954 (48 U.S.C. § 1576), set out preceding Title 1.

§ 232. Primary elections

Beginning with the year 1976, and every two years thereafter, party primary elections shall be held in the Virgin Islands on the second Tuesday of September for the purpose of choosing candidates for nomination to public offices to be voted for at the ensuing general election and for the election of members of the Territorial Committee of each party, and of such other party officers, committee members and delegates as each party by its rules shall require to be elected at such party primary elections.

(Added Feb. 20, 1963, No. 936, § 1; amended Aug. 7, 1964, No. 1238, Sess. L. 1964, p. 367; Nov. 15, 1971, No. 3127, § 1, Sess. L. 1971, p. 361; April 26, 1972, No. 3215, § 6, Sess. L. 1972, p. 78; Feb. 24, 1975, No. 3677, Sess. L. 1975, p. 11.)

HISTORY

Amendments-1975. Substituted "1976" for the year "1972" and "September" for "July" to change the date of primary elections.

-1972. Changed date to "second Tuesday in July" and inserted the word "party" preceding "primary elections" at end of sentence.

-1971. Rephrased section and changed date to July.

-1964. Substituted "on October 1, 1964, and on the second Tuesday in September, beginning with the year 1966", for "on the second Tuesday in September, beginning with the year 1964".

1966 Primary Elections October 4th. Act Aug. 13, 1966, No. 1805, § 1, Sess. L. 1966, p. 443, provided: "Section 1. Notwithstanding the provisions of section 232, Title 18 of the Virgin Islands Code [this section], party primary elections shall be held in the Virgin Islands on the fourth day of October in the year 1966, for the purpose of choosing candidates for nomination to public offices to be voted for at the ensuing general election, and for the election of members of the territorial committee of such party, and of such other party officers, committee members, and delegates, as each party, by its rules, shall require to be elected at such primary elections."

Chapter 13. Qualifications of Electors

HISTORY

Reapportionment of Legislature; provisional repeal of certain laws. Establishment of Commission on Reapportionment of the Legislature for purpose of preparing and submitting to Legislature, by January 9, 1968, a recommended plan for reapportionment of the Legislature, and provisional repeal of all provisions of this title which refer to legislative districts of St. Thomas, St. Croix, and St. John, see Acts Feb. 15, 1967, No. 1850; Sept. 18, 1967, No. 2054, set out in note preceding chapter 1 of this title.

SECTION ANALYSIS

- 261. Qualifications generally.
- 262. Residence defined.
- 263. Loss of franchise by felon; mental incompetents.
- 264. Status of members of armed forces as to franchise.
- 265. Qualifications of electors at primaries.

§ 261. Qualifications generally

Except as provided in this chapter, every resident of the Virgin Islands, who is a citizen of the United States and is 18 years of age or over, has the right to franchise, and shall be entitled to vote at all elections if he or she has complied with the provisions of this title requiring and regulating the registration of its electors.

(Added Feb. 20, 1963, No. 936, § 1; amended Dec. 23, 1970, No. 2887, § 1, Sess. L. 1970, p. 373; May 28, 1971, No. 3050, § 1, Sess. L. 1971, p. 178, No. 3058, § 1, Sess. L. 1971, p. 217.)

HISTORY

Source. Former Title 18 V.I.C. § 31.

Effective date. See note set out under section 100 of this title.

Amendments-1971. Nos. 3050 and 3058 omitted provisions relating to ability to read and write and lowered voting age to 18.

-1970. Omitted provisions relating to ability to read and write and lowered voting age to 18.

Voter registration. Acts May 28, 1971, No. 3050, No. 3058, §§ 4, 5, Sess. L. 1971, p. 179, 218, provided: "Section 4. In order to offer the widest opportunity and convenience to those persons who will become eligible for registration as electors in the Virgin Islands pursuant to the provisions of this Act [which amended this section and section 100 of this title], the Commissioner of Education, beginning October 1, 1971, shall make available facilities in public school buildings during or after school hours to the Board of Elections for each election district.

"Section 5. Beginning September 1, 1971, and continuing to the 1972 general election, except during the period thirty (30) days immediately preceding such general election and the 1972 primary election and during the period of five (5) days immediately following such primary, the Board of Elections of each election district, or a part thereof of not less than two members, shall sit at least once each week at a place other than the offices of such Boards of Elections for the purpose of examining and registering applicants for registration as electors. Within seven days before the first day of September, 1971 and each month thereafter until the 1972 general election each Board of Elections shall cause to be published in all local newspapers circulating in its district, two general notices of the times and places fixed by the board for receiving applications for registration at places other than the offices of the Board of Elections."

CROSS REFERENCES

For provisions of the Organic Act relating to the franchise, see section 4 of the Revised Organic Act of the Virgin Islands, app. July 22, 1954 (48 U.S.C. § 1542), which is set out preceding Title 1.

ANNOTATIONS

Analysis

1. Persons entitled to vote.
2. Disabled persons.

1. PERSONS ENTITLED TO VOTE.

An alien woman who has declared her intention to become a citizen of the United States, has taken an oath to support the Constitution and Government of the United States and has met other lawful requirements was entitled to vote in local elections under the Amalienborg Code of 1906 as affected by R.S. § 1860; Act of Congress, Mar. 3, 1883, 22 Stat. 567. *Richardson v. Electoral Board of Frederiksted*, (D.C.V.I. 1963, (unpublished opinion)).

2. DISABLED PERSONS.

Persons having a physical disability preventing them from reading or from writing, or both, who are citizens in good standing, and who could read and write prior to their disability, should be permitted to register and vote., 3 V.I.Op.A.G. 289.

§ 262. Residence defined

(a) For the purposes of this title, "resident of the Virgin Islands" is a person who has maintained legal residence in the Virgin Islands and in the election district in which he desires to vote for a period of at least 30 days next preceding the date of the election. A registered voter of an election district, who is temporarily residing in another election district and expects to continue such temporary residence until after the ensuing primary or general election, may, in the manner provided by section 107 of this title, and upon application at least 30 days before the primary or election, transfer his registration to the election district in which he is temporarily residing. In all cases of doubt as to legal residence, the board of elections shall request the registrant to submit substantial and

satisfactory proof that he has fulfilled the legal residence requirement. The domicile, which is the registrant's legal residence, shall be determined in accordance with the following rules:

(1) Every person has a domicile.

(2) There can be but one domicile.

(3) Legal residence or domicile is the place where a person habitually resides when not called elsewhere to work or for some temporary purpose and to which such person returns in season for rest.

(4) Legal domicile or residence may be changed by joinder of act and intent.

(5) A domicile cannot be lost until a new one has been acquired.

(b) This section shall be strictly enforced by the boards of elections.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(15); June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70; July 12, 1978, No. 4156, § 8, Sess. L. 1978, p. 152; July 15, 1988, No. 5352, § 3, Sess. L. 1988, p. 183.)

HISTORY

Source. Former Title 18 V.I.C. § 32.

Revision note. In the first sentence of subsection (a), substituted "an" for "a" preceding "election district" in order to correct a grammatical error. See § 14 of Title 1.

Amendments-1988. Subsection (a): Substituted "90" for "30" preceding "days" in the first sentence.

-1978. Subsection (a): Redefined "resident of the Virgin Islands" in the first sentence.

-1968. Subsection (a): Substituted "election" for "legislative" preceding "district" wherever it appeared in the first and second sentences.

-1963. Subsection (a): Amended second sentence generally.

Effective date of amendments-1988. Act July 15, 1988, No. 5352, § 5, Sess. L. 1988, p. 184, provided that section (3) of the act, which amended subsec. (a) of this section, shall become effective for the general election of November, 1990.

-1978. Act No. 4156 effective as of July 12, 1978, see note set out under section 91 of this title.

-1968. For effective date of amendment, see note set out under section 41 of this title.

CROSS REFERENCES

For provisions of the Organic Act relating to residence requirements, see section 4 of the Revised Organic Act of the Virgin Islands, app. July 22, 1954 (48 U.S.C. § 1542), set out preceding Title 1.

§ 263. Loss of franchise by felon; mental incompetents

(a) Every person who has been twice convicted by a court of competent jurisdiction of a felony or of a crime involving moral turpitude shall be debarred from voting for a period of 10 years.

(b) Every person who has been convicted by a court of competent jurisdiction of a felony or of a crime involving moral turpitude shall be debarred from voting for a period of one year following the date of his discharge.

(c) No inmate of a public or private institution for the insane and no person under the care of a guardian by reason of any mental incapacity shall be entitled to vote.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Former Title 18 V.I.C. § 33.

CROSS REFERENCES

For provisions of the Organic Act relating to qualifications for the franchise, see section 4 of the Revised Organic Act of the Virgin Islands, app. July 22, 1954 (48 U.S.C. § 1542), which is set out preceding Title 1.

ANNOTATIONS

Analysis

1. Generally.
2. Restoration of franchise.

1. GENERALLY.

A person on probation or parole following conviction of a felony or crime of moral turpitude must complete the probation or parole before he can vote., 7 V.I.Op.A.G. 346.

2. RESTORATION OF FRANCHISE.

Since the right to vote and the right to hold public office are not synonymous but are distinguishable, subsection (b) of this section, which restored convicted felon's right to vote after his discharge from prison, did not restore his right to hold public office. *Moorhead v. Government of V.I.*, 18 V.I. 237 (Terr. Ct. St. C. 1982).

§ 264. Status of members of armed forces as to franchise

For the purpose of this title, no person on active duty in the armed services of the United States or any person residing on active military reservations shall be deemed to have acquired residence in the Virgin Islands in consequence of having been stationed within the same.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Former Title 18 V.I.C. § 34.

§ 265. Qualifications of electors at primaries

The qualifications of electors entitled to vote at primaries shall be the same as the qualifications of electors entitled to vote at elections within the polling district where the primary is held, except that an elector who is not enrolled as a member of a political party, in accordance with the provisions of this title, shall not be permitted to vote the ballot of such party or any other party ballot at any primary.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2811.

Chapter 15. Organization of Political Parties

HISTORY

Reapportionment of Legislature; provisional repeal of certain laws. Establishment of Commission on Reapportionment of the Legislature for purpose of preparing and submitting to Legislature, by January 9, 1968, a recommended plan for reapportionment of the Legislature, and provisional repeal of all provisions of this title which refer to legislative districts of St. Thomas, St. Croix, and St. John, see Acts Feb. 15, 1967, No. 1850; Sept. 18, 1967, No. 2054, set out in note preceding chapter 1 of this title.

SECTION ANALYSIS

- 301. Political parties and political bodies.
- 302. Only enrolled electors to vote at primaries or hold party offices.
- 303. Territorial committees.
- 304. Organization of territorial committees; rules.
- 305. Other party committees and offices.
- 306. Candidates who shall be declared elected to party offices; tie vote.
- 307. Primary for particular office prohibited if number of nomination petitions exactly equals number to be elected; declaration of election.

§ 301. Political parties and political bodies

(a) Any political party in the Virgin Islands which is the officially recognized affiliate of either of the two major national political parties (of either the Democratic National Committee or the Republican National Committee) and each other political party or political body, one of whose candidates for election for a territorial office at the last preceding general election polled not less than five percent (5%) of the total number of valid ballots cast in the territory, shall be recognized as a political party within the territory, and, except as provided in sections 307 and 359 of this title or as otherwise provided by law, shall nominate all its candidates for public office, and shall elect the members of its territorial committee and such other party officers as its rules provide, by a vote of the electors enrolled as members of the party at the primary election in accordance with the provisions of this title.

(b) Any political group which is not a political party but which has nominated candidates for at least two public offices by nomination papers under subchapter II of chapter 17 of this title, shall be deemed to be a political body for the purposes of this title, but such political body may not nominate its candidate or elect its party officers at primary elections held under the provisions of this title.

(c) Whenever a political party in the Virgin Islands affiliates with a national political party, committee, convention or organization, regardless of when such affiliation took place, no association, group, club, organization or instrumentality shall use the symbol, emblem, or insignia, of the national political party, convention, committee or organization which has affiliated with a Virgin Islands political party, without the express

consent in writing from the chairman and secretary of the Virgin Islands political party filed with the Supervisor of Elections. A petition for an injunction to restrain such association, club, group or instrumentality from using such symbol, emblem, or insignia may be filed in the District Court by the officers of said affiliated political party and/or the Supervisor of Elections.

(d) The Chairman and the Secretary of any political party which is affiliated with a national political party may certify to the Supervisor of Elections at least twenty-eight (28) days prior to an election the emblem or emblems of such national party with which it is affiliated and such certification shall be prima facie evidence of such emblem or emblems of such national party.

(Added Feb. 20, 1963, No. 936, § 1; amended April 2, 1964, No. 1163, § 11, Sess. L. 1964, p. 166; April 21, 1965, No. 1437, § 9, Sess. L. 1965, Pt. I, p. 200; Dec. 3, 1965, No. 1546, Sess. L. 1965, Pt. I, p. 545; Sept. 1, 1966, No. 1815, § 14, Sess. L. 1966, p. 503; June 26, 1968, No. 2253, § 2(f), Sess. L. 1968, Pt. II, p. 74.)

HISTORY

Amendments-1968. Amended generally.

-1966. Subsection (k): Added.

-1965. Act April 21, 1965, No. 1437, amended subsection (h) generally by deleting reference to status prior to Jan. 1, 1965, and adding reference to "officially recognized affiliate".

Act Dec. 3, 1965, No. 1546, added subsection (j).

-1964. Subsection (h): Provided for nomination of candidates by party which, after Jan. 1, 1965, had one candidate who polled not less than 5 per cent of total vote in preceding general election.

Subsection (i): In second sentence, changed "may be declared" to "shall become".

Effective date of amendments-1968. See note under section 1 of this title.

-1966. Section 15 of Act Sept. 1, 1966, No. 1815, Sess. L. 1966, p. 503, provided: "This Act [amending this section and sections 303(a), 306(a), 343, 344(b), 355(b), (c), 357, 471(b), 492, 493(b), 584(b), (c) and 6223(a), (d) of this title, and enacting these provisions and provisions set out in notes preceding chapter 1 of this title] shall become effective upon approval by the Governor, or upon the date of approval by the President of the United States of H.R. 13277 'An Act to Amend the Revised Organic Act of the Virgin Islands to Provide for the reapportionment of the Legislature of the Virgin Islands', whichever date is later."

H. R. 13277 was approved as P.L. 89-548 by the President on Aug. 30, 1966. The Governor signed Act No. 1815 on Sept. 1, 1966.

ANNOTATIONS

Analysis

1. Generally.
2. Hearings.
3. Appeals.

4. Scope of review.
5. Injunctions.
6. Costs.

1. GENERALLY.

A person who sues or is sued in his official or representative capacity is, in contemplation of law, regarded as a person distinct from the same person in his individual capacity and is a stranger to his rights and liabilities as an individual; and it is equally clear that a person in his individual capacity is a stranger to his rights and liabilities as a fiduciary or in a representative capacity. *Alexander v. Todman*, 5 V.I. 586, 361 F.2d 744 (C.A.3d 1966).

There is recourse in a court of law when there is an attempt through devious means to take over a political party for ulterior motives. *Alexander v. Todman*, 4 V.I. 589, 231 F. Supp. 368 (D.C.V.I. 1964), reversed on other grounds, C.A.3d 1964, 5 V.I. 137, 337 F.2d 962.

2. HEARINGS.

Where two petitions are filed by political parties with the Supervisor of Elections using the same name, the Supervisor of Elections was compelled by statute to hold a hearing to determine which petition should be accepted. *Alexander v. Todman*, 4 V.I. 580, 231 F. Supp. 365 (D.C.V.I. 1964), reversed on other grounds, C.A.3d 1964, 5 V.I. 137, 337 F.2d 962.

3. APPEALS.

An appeal by plaintiff from refusal of Supervisor of Elections to hold a hearing with respect to petition registering name of organization as a political party was timely filed under this section where plaintiff filed appeal on June 12, 1963, plaintiff having been notified by letter on June 10, 1963, that Supervisor of Elections had made final denial of plaintiff's request for a hearing. *Alexander v. Todman*, 4 V.I. 580, 231 F. Supp. 365 (D.C.V.I. 1964), reversed on other grounds, C.A.3d 1964, 5 V.I. 137, 337 F.2d 962.

4. SCOPE OF REVIEW.

The District Court on appeal from the decision of the Supervisor of Elections, as to which of two original petitions filed by political parties using the same name should be accepted, may affirm, modify or reverse the decision of the Supervisor of Elections and may declare which of the original petitions filed is to be accepted. *Alexander v. Todman*, 4 V.I. 580, 231 F. Supp. 365 (D.C.V.I. 1964), reversed on other grounds, C.A.3d 1964, 5 V.I. 137, 337 F.2d 962.

5. INJUNCTIONS.

Though a political party may be an unincorporated association, subsection (g) of this section authorizes officers of a legally recognized political party to sue for an injunction. *Alexander v. Todman*, 5 V.I. 586, 361 F.2d 744 (C.A.3d 1966).

6. COSTS.

Where officers of a political party brought suit for injunction under provisions of subsection (g) of this section and final judgment was for defendants, assessment of costs against political party of plaintiffs and not against plaintiffs personally was proper under section 545 of Title 5, no showing of bad faith on part of plaintiffs having been made. *Alexander v. Todman*, 5 V.I. 586, 361 F.2d 744 (C.A.3d 1966).

§ 302. Only enrolled electors to vote at primaries or hold party offices

No person who is not registered and enrolled as a member of a political party may vote at any primary election of such party, be elected to serve as a party officer or a member or officer of any party committee or as a delegate or alternate to any party convention, or be nominated for public office at any primary election of such party.

(Added Feb. 20, 1963, No. 936, § 1; amended April 2, 1964, No. 1163, § 12, Sess. L. 1964, p. 166; June 26, 1968, No. 2253, § 2(g), Sess. L. 1968, Pt. II, p. 70; July 18, 1968, No. 2300, § 2, Sess. L. 1968, Pt. II, p. 261.)

HISTORY

Amendments-1968. Act July 18, 1968, No. 2300, § 2, rephrased section and added "or be nominated for public office at any primary election of such party."

Act June 26, 1968, No. 2253, § 2, added phrase "or to be nominated for public office" at end of section.

-1964. Changed section generally from provisions which affirmed right and determined procedure for enrolling in party to provisions which prohibit party activity by nonmembers.

Effective date of amendments-1968. See note under section 1 of this title.

ANNOTATIONS

1. PRIOR LAW.

Disagreement as to what constituted the policy standards of a political party could serve as a basis upon which the court could reach the question of what policies were proved and to what extent the behavior of individuals comported thereto. *Alexander v. Todman*, 5 V.I. 137, 337 F.2d 962 (C.A.3d 1964).

Only a clear showing that a challenged enrollee held basic views adverse to the policies of a party in which enrollment was sought would sustain the finding of a violation of former provisions of this section. *Alexander v. Todman*, 5 V.I. 137, 337 F.2d 962 (C.A.3d 1964).

Failure to prove bad faith enrollment under former provisions of this section precluded drawing of inferences from the activities of individuals in a struggle for control of a political party, and evidence in this case failed to prove that such individuals conspired to attempt a coup in that party. *Alexander v. Todman*, 5 V.I. 137, 337 F.2d 962 (C.A.3d 1964).

Evidence in the case did not sustain the burden of proof necessary to show policy antagonism between a political party and certain individuals which would justify a finding of bad faith enrollment under former provisions of this section. *Alexander v. Todman*, 5 V.I. 137, 337 F.2d 962 (C.A.3d 1964).

Evidence of former opposition to a political party was not, of itself, dispositive of the issue of a bona fide pledge of "present intention" to support that party's policies. *Alexander v. Todman*, 5 V.I. 137, 337 F.2d 962 (C.A.3d 1964).

Under former provisions of this section, a court could judge the sincerity of an enrollee's statutory pledge of present intention to support the policies of the party in which he enrolled, in the absence of effective administrative procedure for challenge. *Alexander v. Todman*, 5 V.I. 137, 337 F.2d 962 (C.A.3d 1964).

§ 303. Territorial committees

(a) Each political party in the Virgin Islands shall have a territorial committee which shall be comprised of thirty (30) elected members as follows:

(1) eight (8) members from the election district of St. Thomas-St. John, six (6) of whom shall reside on St. Thomas and two (2) of whom shall reside on St. John;

(2) six (6) members from the election district of St. Croix; and

(3) sixteen (16) at large members, of whom not less than seven (7) shall reside on St. Croix and not less than seven (7) shall reside on St. Thomas.

(b) In addition to the elected members of the territorial committee of a political party there shall be such ex officio members as provided for by party rules, but not to exceed twenty (20) voting ex officio members. Such ex officio members shall have such powers and duties as set forth in the party rules.

(c) The elected members of the territorial committee of a political party shall be elected at the primary election and shall serve for two (2) years. Each elector enrolled in a political party may, at the primary election, vote for members of the territorial committee up to the number at large and for the election district in which he registered to vote.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(16)-(18); Aug. 13, 1966, No. 1805, § 7, Sess. L. 1966, p. 444; Sept. 1, 1966, No. 1815, § 2, Sess. L. 1966, p. 491; June 26, 1968, No. 2253, § 2(h), Sess. L. 1968, Pt. II, p. 75; July 18, 1968, No. 2300, § 3, Sess. L. 1968, Pt. II, p. 261.)

HISTORY

Amendments-1968. Act July 18, 1968, No. 2300, § 3, amended section generally.

Act June 26, 1968, No. 2253, § 2(h) amended subsection (a) by substituting "island" for "District" or "district" wherever it appeared.

-1966. Subsection (a) amended generally by Act Aug. 13, 1966, No. 1805, § 7 and Act Sept. 1, 1966, No. 1815, § 2, both of which increased committee membership to 30.

Subsection (b) amended by Act Aug. 13, 1966, No. 1805, § 7 by eliminating references to 1963 and generally simplifying method of election.

Subsections (c), (d) and (e) omitted by amendment of this section by Act Aug. 13, 1966, No. 1805, § 7.

-1964. Subsection (e): Added.

-1963. Subsection (b): Inserted, in paragraph (3), words "and that he subscribed to the policies of the said party".

Subsection (c): Added sentence relating to voting for candidates on two or more slates.

Subsection (d): Amended second sentence generally.

Effective date of amendments-1968. See note under section 1 of this title.

-1966. See note under section 301 of this title.

§ 304. Organization of territorial committees; rules

(a) The members of the territorial committee shall meet for organization within 10 days following the primary, at such hour and place as shall be designated by the territorial chairman of each political party; provided, however, that the Supervisor of Elections shall designate the hour and place of the organization meeting of the first territorial committee of each party. The territorial committee of each political party shall make such rules for the government of the party in the territory that are not inconsistent with law, as it may deem expedient. No such rules shall be effective until a certified copy thereof has been filed in the office of the Supervisor of Elections.

(b) The Supervisor of Elections, with the assistance of the boards of elections, shall prepare and certify rosters of the names and addresses of persons enrolling as members of each political party, and shall transmit such rosters to the Chairman of the territorial committee of each political party within 20 days after organization of its first territorial committee.

(Added Feb. 20, 1963, No. 936, § 1; amended April 21, 1965, No. 1437, § 4, Sess. L. 1965, Pt. I, p. 200; Nov. 15, 1971, No. 3127, § 2, Sess. L. 1971, p. 362.)

HISTORY

Amendments-1971. Subsection (a): Omitted obsolete provisions.

-1965. Subsection (a): Extended term of national committeeman and national committeewoman from 1965 to 1968.

§ 305. Other party committees and offices

The members of all other party committees, and all other party officers, whose election is required by the party rules, shall be elected at the primary in the manner provided by this title; provided, that in any event, where the party rules provide for such offices, the national committeeman, the national committeewoman, the state chairman, and a district chairman each for the Islands of St. Croix, St. John and St. Thomas shall be elected at the primary election and shall serve for two (2) years, except that commencing with the year 1972 the national committeeman and the national committeewoman elected shall serve for four (4) years if the party rules so provide.

(Added Feb. 20, 1963, No. 936, § 1; amended Nov. 15, 1971, No. 3127, § 3, Sess. L. 1971, p. 362.)

HISTORY

Amendments-1971. Added proviso at end.

§ 306. Candidates who shall be declared elected to party offices; tie vote

(a) Candidates for the various political parties for party offices who receive a plurality of the votes of the party electors at a primary election shall be declared elected.

(b) In the case of a tie vote for any party office, the candidates receiving the tie vote shall cast lots before the Supervisor of Elections or his deputy at a time and place to be fixed by the Supervisor of Elections and the one to whom the lot shall fall shall be declared elected. If any candidate receiving a tie vote fails to appear at the time and place fixed by the Supervisor of Elections the Supervisor of Elections or his deputy, as the case may be, shall cast lots for him. For the purpose of casting lots, any candidate may appear in person, or by proxy appointed in writing.

(Added Feb. 20, 1963, No. 936, § 1; amended Aug. 13, 1966, No. 1805, § 8, Sess. L. 1966, p. 445; Sept. 1, 1966, No. 1815, § 3, Sess. L. 1966, p. 491; Nov. 15, 1971, No. 3127, § 4, Sess. L. 1971, p. 362.)

HISTORY

Amendments-1971. Subsection (a): Omitted proviso relating to election to territorial committee.

-1966. Subsection (a) amended by Act Aug. 13, 1966, No. 1805, § 8 and Act Sept. 1, 1966, No. 1815, § 3. Both added a proviso to subsection.

Effective date of amendments-1966. See note under section 301 of this title.

§ 307. Primary for particular office prohibited if number of nomination petitions exactly equals number to be elected; declaration of election

If the number of candidates who filed nomination petitions for a particular party office exactly equals the number of persons who are to be elected to such office, no party primary with respect to such office shall be held, and, in such a case, the Supervisor of Elections shall declare the candidates who filed the petitions to be elected to such party office.

(Added Feb. 20, 1963, No. 936, § 1.)

Chapter 17. Nomination of Candidates

Subchapter I. Nomination at Primaries; Position on Ballots.

- 341. Determination and certification of political parties.
- 342. Candidates to be nominated and party officers to be elected at primaries.
- 343. Ascertainment of offices for which candidates are to be nominated.
- 344. Nomination petitions.
- 345. Manner of signing nomination petitions; time of circulating.
- 346. Composition of petition; affidavit of circulator.
- 347. Number of signers required.
- 348. Affidavits of candidates.
- 349. [Repealed.]
- 350. Withdrawal of candidates.
- 351. Casting of lots for position of names upon official primary ballots; notice to candidates.
- 352. Furnishing election boards with list of candidates; notice to candidates.
- 353. Death of person named in nomination petition.
- 354. Electronic voting machines, and all auxiliary equipment and other supplies for primaries.
- 355. Conduct of primaries; voting for candidates at large; symbol voting for entire slate.
- 356. Primary election returns.
- 357. Which candidates nominated; district candidates; at large candidates; designation of straight party vote candidates; designation certificates.
- 358. Nominee in case of tie vote.
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Subchapter II. Nomination of Candidates by Political Bodies.

- 381. Manner of nominating candidates by political bodies.
- 382. Composition of nomination papers; affidavit of circulator.
- 383. Affidavits of candidates.
- 384. Contents of nomination papers; restriction on names.
- 385. [Repealed.]

Subchapter III. Filing; Objections; Withdrawals; Substitutions; Position on Election Ballot; Certifications.

- 410. Filing time for nomination.
- 411. Examination of nomination petitions, papers, and certificates; notice of defects.

- 412. Objections to nomination petitions and papers.
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- 414. Substituted nominations by parties.
- 415. Substituted nominations by political bodies.
- 416. Time for filing substituted nomination certificates and papers.
- 417. Objections to substituted nomination certificates and papers.
- 418. Preservation of nomination petitions, certificates and papers.
- 419. Casting of lots for position of names upon official election ballot; notice to candidates.
- 420. Certificate of nominees by Supervisor of Elections.

Subchapter I. Nomination at Primaries; Position on Ballots

HISTORY

Reapportionment of Legislature; provisional repeal of certain laws. Establishment of Commission on Reapportionment of the Legislature for purpose of preparing and submitting to Legislature, by January 9, 1968, a recommended plan for reapportionment of the Legislature, and provisional repeal of all provisions of this title which refer to legislative districts of St. Thomas, St. Croix, and St. John, see Acts Feb. 15, 1967, No. 1850; Sept. 18, 1967, No. 2054, set out in note preceding chapter 1 of this title.

§ 341. Determination and certification of political parties

The Supervisor of Elections shall determine which organizations are political parties within the meaning of section 301 of this title, and, not later than the tenth Tuesday preceding each primary, shall transmit to each board of elections a list of such political parties which shall be entitled to nominate candidates and elect party officers at primaries.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2861(a).

§ 342. Candidates to be nominated and party officers to be elected at primaries

Except as provided in sections 307 and 359 and as otherwise provided by law, all candidates of political parties, as defined in section 301 of this title, for public offices shall be nominated, and candidates for party offices which, under this title, are required to be elected by the party electors, shall be elected, at primary elections held in accordance with the provisions of this title and in no other manner.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, No. 2252, § 6, Sess. L. 1968, Pt. II, p. 70.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2862.

Amendments-1968. Amended generally.

Effective date of amendments-1968. See note under section 41 of this title.

CROSS REFERENCES

For provisions of the Organic Act relating to qualifications of candidates, see section 6(b) of the Revised Organic Act of the Virgin Islands, app. July 22, 1954, set out preceding Title 1.

§ 343. Ascertainment of offices for which candidates are to be nominated

The Supervisor of Elections prior to each primary shall ascertain the public offices to be filled at the ensuing general election, and for which candidates are to be nominated at such primary, and otherwise, in accordance with the provisions of this title.

(Added Feb. 20, 1963, No. 936, § 1; amended April 2, 1964, No. 1163, § 14, Sess. L. 1964, p. 167; Sept. 1, 1966, No. 1815, § 1, Sess. L. 1966, p. 491.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2863.

Amendments-1966. Struck out second paragraph, which had been added by Act April 2, 1964, and which related to number of candidates for senator at large which a party might nominate.

-1964. Added second paragraph.

Effective date of amendments-1966. See note under section 301 of this title.

§ 344. Nomination petitions

(a) The name of no person may be placed on the official primary ballot of a political party as a candidate for public or party office unless a petition in accordance with the provisions of this section has been filed in his behalf and unless he is a duly registered voter and enrolled as a member of such party.

(b) The nominations of candidates at the primary election for public offices to be filled at the ensuing general election and for party offices to be filled at the primary election shall be made by nomination petitions for each candidate who files under this subchapter. The forms of the respective nomination petitions provided for by this section shall be prescribed by the Supervisor of Elections and each petition shall be signed by registered and enrolled members of the proper party in accordance with the provisions of sections 345 through 348, inclusive, of this subchapter.

(c) [Repealed.]

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(20); April 2, 1964, No. 1163, § 15, Sess. L. 1964, p. 167; Aug. 13, 1966, No. 1805, § 16, Sess. L. 1966, p. 448; Sept. 1, 1966, No. 1815, § 12(a), Sess. L. 1966, p. 502; May 29, 1968, No. 2214, § 3, Sess. L. 1968, Pt. II, p. 20; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II,

p. 70; Feb. 12, 1969, No. 2419, § 2, Sess. L. 1969, p. 64; Nov. 15, 1971, No. 3127, § 9, Sess. L. 1971, p. 364; May 24, 1979, No. 4302, § 1, Sess. L. 1979, p. 54; Oct. 21, 1988, No. 5367, § 4(4), Sess. L. 1988, p. 254.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2867.

Amendments-1988. Subsection (c): Repealed.

-1979. Subsection (c): Amendment required that candidates for a primary election file by the first Monday in August.

-1971. Subsection (c): Changed filing date to the first working day of June.

-1969. Amended section generally.

-1968. Subsection (a): Rephrased.

-1966. Subsection (b): Amended generally by Act Aug. 13, 1966, and again by Act Sept. 1, 1966.

Subsection (c): Act Aug. 13, 1966, amended first sentence generally; added "by this or any other procedure" following "Such nomination", in second sentence; and rephrased remainder of subsection, including omission of "at large" with respect to candidates.

Subsection (d): Act Aug. 13, 1966, added second sentence.

-1964. Subsection (c): Amended opening paragraph generally and added provisions relating to nomination petitions.

-1963. Amended section generally.

Effective date of amendments-1988. Act Oct. 21, 1988, No. 5367, § 8(b), Sess. L. 1988, p. 254, provided that section 4(4) of the act, which repealed subsec. (c) of this section, shall take effect Jan. 1, 1990.

-1966. See note under section 301 of this title.

CROSS REFERENCES

Time for filing of nomination petitions, see § 410 of this title.

ANNOTATIONS

1. LOYALTY OATH.

Purpose of the party loyalty oath provided in Act Sept. 1, 1966, No. 1815, § 11(b), with respect to persons filing for nomination for public office at 1966 primary election, pursuant to subsections (b) and (c) of this section, was to bind a candidate, if defeated in the party primary

election, to support the party candidates who defeated him and were nominated at the primary election. *Canton v. Todman*, 5 V.I. 637, 367 F.2d 1005 (C.A.3d 1966).

Party loyalty oath provided in Act Sept. 1, 1966, No. 1815, § 11(b), with respect to persons filing for nomination for public office at 1966 primary election, pursuant to subsections (b) and (c) of this section, could have no application to candidates who had no party opposition and were themselves entitled to be declared the party candidates at the election. *Canton v. Todman*, 5 V.I. 637, 367 F.2d 1005 (C.A.3d 1966).

Act Sept. 1, 1966, No. 1815, § 11(b), which provided for loyalty oath with respect to persons filing for nomination at 1966 primary election, did not prescribe that the Supervisor of Elections should refuse to accept a nominating petition without the loyalty oath; in fact, it provided for acceptance and that the oath might be filed later; nor did such Act prescribe that the Supervisor of Elections should receive nominating petitions conditioned upon receipt of the loyalty oath and refuse to accept the filing of the petitions if the oath was not received. *Canton v. Todman*, 5 V.I. 410, 259 F. Supp. 22 (D.C.V.I. 1966), affirmed C.A.3d 1966, 5 V.I. 637, 367 F.2d 1005.

This section intends as its only penalty for noncompliance therewith not to allow the candidate's name to appear on the primary ballot; and Act Sept. 1, 1966, No. 1815, § 11(b), which prescribed a loyalty oath with respect to persons filing for nomination at 1966 primary election, did not show a change of intention for it, too, provided only one penalty for failure to file the party loyalty oath; i.e., that the candidate's name should not appear on the primary ballot. *Canton v. Todman*, 5 V.I. 410, 259 F. Supp. 22 (D.C.V.I. 1966), affirmed C.A.3d 1966, 5 V.I. 637, 367 F.2d 1005.

This section required that defendant Supervisor of Elections accept and retain as validly filed candidate plaintiffs' nomination petitions, notwithstanding failure of plaintiffs to file loyalty oath as set forth in § 11(b) of Act Sept. 1, 1966, No. 1815, relating to 1966 primary election. *Canton v. Todman*, 5 V.I. 410, 259 F. Supp. 22 (D.C.V.I. 1966), affirmed C.A.3d 1966, 5 V.I. 637, 367 F.2d 1005.

Where plaintiffs, candidates for nomination, did not file loyalty oath as provided by Act Sept. 1, 1966, No. 1815, § 11(b), with respect to 1966 primary election, were, by court decision, enabled to have their names appear on the general election ballot as candidates of their party, their personal rights were no longer interfered with or impaired and they were not authorized to attack the constitutionality or the validity of said Act No. 1815. *Canton v. Todman*, 5 V.I. 410, 259 F. Supp. 22 (D.C.V.I. 1966), affirmed C.A.3d 1966, 5 V.I. 637, 367 F.2d 1005.

§ 345. Manner of signing nomination petitions; time of circulating

(a) Each signer of a nomination petition as provided for in section 344(b) of this subchapter shall sign but one such petition for each office to be filled, except that, where there are to be elected two or more persons to the same office, each signer may sign petitions for as many candidates for such office as, and no more than, he could vote for at the succeeding election.

(b) Each signer of a nomination petition as provided for in section 344(b) of this subchapter shall declare in the petition that he is:

(1) a registered and enrolled member of the party designated in such petition; and

(2) a qualified elector of the territory of the Virgin Islands, and, in case the nomination is not to be made, or the candidates are not to be elected, by the electors of the territory at large, of the election district named in the petition.

(c) Each signer of a nomination petition as provided for in section 344(b) of this subchapter shall add his occupation and residence, giving street and number and town if any, and the date of signing, expressed in words or numbers.

(d) No nomination petition as provided for in section 344(b) of this subchapter shall be circulated prior to 30 days before the last day on which such petition may be filed, and no signature shall be counted unless it bears date within 30 days of the last day of filing the petition.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(21); June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2868.

Amendments-1968. Subsection (b)(2): Substituted "election" for "legislative" preceding "district".

-1963. Inserted words "as provided for in section 344(b) of this subchapter".

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 346. Composition of petition; affidavit of circulator

A nomination petition as provided for in section 344(b) of this subchapter may be on one or more sheets, and different sheets shall be used for signers resident in different election districts. If more than one sheet is used, they shall be bound together when offered for filing if they are intended to constitute one petition, and each sheet shall be numbered consecutively beginning with number one, at the foot of each page. Each sheet shall have appended thereto the affidavit of a person, not necessarily a signer, and not necessarily the same person on each sheet, setting forth:

(1) That the affiant is a qualified elector of the territory of the Virgin Islands, or of the election district, as the case may be, referred to in the petition;

(2) his residence, giving town with street and number if any;

(3) that the signers thereto signed with full knowledge of the contents of the petition;

(4) that their respective residences are correctly stated therein;

(5) that they all reside in the election district named in the affidavit;

(6) that each signed on the date set opposite his name; and

(7) that, to the best of affiant's knowledge and belief, the signers are qualified electors and duly registered and enrolled members of the designated party of the territory of the Virgin Islands, or of the election district, as the case may be.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(21); June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2869.

Amendments-1968. Substituted "election" for "legislative" preceding "district" and "districts" wherever they appeared.

-1963. Inserted words "as provided for in section 344(b) of this subchapter".

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 347. Number of signers required

Nomination petitions under section 344(b) of this subchapter of candidates at primaries shall be signed:

(1) if for a public office to be filled by a vote of the electors of the territory of the Virgin Islands at large, or for a party office to be filled by election at large, by at least 25 registered and enrolled members of the proper party in each of at least two election districts; or

(2) if for a public or party office to be filled by election in an election district or island by at least twenty-five (25) registered and enrolled members of the proper party; or

(3) if for any other party office, by at least 10 registered and enrolled members of the proper party; or

(4) [Repealed.]

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(22), (23); Aug. 13, 1966, No. 1805, § 18, Sess. L. 1966, p. 450; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; No. 2253, § 2(i), Sess. L. 1968, Pt. II, p. 75; Nov. 15, 1971, No. 3127, § 8, Sess. L. 1971, p. 364.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2872.

Amendments-1971. Subdivision (4): Repealed.

-1968. Act No. 2252 substituted the words "election districts" for "legislative districts".

Subdivision (2): Amended generally by Act No. 2253.

-1966. Subdivision (3): Substituted "; or" for period at end.

Subdivision (4): Added.

-1963. Redesignated former section 348 as section 347, and inserted words "under section 344(b) of this subchapter".

Effective date of amendments-1968. For effective date of Act No. 2252, see note under section 41 of this title, and for Act No. 2253, see note under section 1 of this title.

§ 348. Affidavits of candidates

Each candidate for any public or party office shall file with his nomination petition his affidavit, stating:

- (1) his residence, with street and number if any, and his postoffice address;
- (2) his election district;
- (3) the name of the office for which he consents to be a candidate;
- (4) that he is eligible for such office;
- (5) that he will not knowingly violate any provision of this title; and

(6) if he is a candidate for election as a member of the territorial committee or other party officer, that he is a registered and enrolled member of the designated party.
(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(22); June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2870.

Amendments-1968. Paragraph (2): Substituted "election" for "legislative" preceding "district".

-1963. Redesignated former section 347 as section 348.

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 349. Repealed. Nov. 15, 1971, No. 3127, § 8. Sess. L. 1971, p. 364.

HISTORY

Former section 349, relating to slate designation, was based on Purdon's Penn. Statutes, Title 25, § 2873, was added to the code by Act Feb. 20, 1963, No. 936, § 1, and was amended prior to repeal by Acts May 29, 1968, No. 2214, § 4, Sess. L. 1968; Pt. II, p. 20; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; Feb. 12, 1969, No. 2419, § 3, Sess. L. 1969, p. 64.

§ 350. Withdrawal of candidates

Any of the candidates for nomination or election at a primary may withdraw his name as a candidate by a request in writing, signed by him and acknowledged before an officer empowered to administer oaths, and filed in the office in which his nomination petition was filed. The withdrawal, to be effective, must be received in the office of the Supervisor of Elections or his deputy not later than the ordinary closing hour of such office on the second Monday in August in the election year. No candidate may withdraw any withdrawal notice already received and filed, and thereby reinstate his nomination petition.

(Added Feb. 20, 1963, No. 936, § 1; amended Feb. 12, 1969, No. 2419, § 4, Sess. L. 1969, p. 66; Nov. 15, 1971, No. 3127, § 10, Sess. L. 1971, p. 365; Aug. 22, 1980, No. 4468, § 1, Sess. L. 1980, p. 138.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2874.

Amendments-1980. Substituted "second Monday in August" for "third Tuesday in June" in the second sentence.

-1971. Changed date to "third Tuesday in June".

-1969. Amended second sentence to refer to a specific date.

§ 351. Casting of lots for position of names upon official primary ballots; notice to candidates

Immediately after the second Monday in August of the election year, the Supervisor of Elections shall fix a day for the casting of lots, in such a manner as may be prescribed by the Supervisor, for the position of names on the official primary ballots. The Supervisor of Elections shall give at least two days' notice of such date, to all candidates whose petitions have been received and filed in his office, by mail to each of them and by publication in the local newspapers circulating in the Virgin Islands or district, as the case may be. All candidates may appear in person, or by agent duly authorized by letter of attorney, signed and acknowledged by an officer empowered to take acknowledgments. If any candidate is not present in person or by representative at the time of the casting of lots, the Supervisor of Elections shall appoint a person to represent such absentee. After the lots are cast, the Supervisor of Elections shall establish accordingly the order in which the names of such candidates are to appear upon the official primary ballots.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(24); Feb. 12, 1969, No. 2419, § 5, Sess. L. 1969, p. 66; Nov. 15, 1971, No. 3127, § 11, Sess. L. 1971, p. 365; Aug. 22, 1980, No. 4468, § 2, Sess. L. 1980, p. 138.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2875.

Amendments-1980. Substituted "second Monday in August" for "third Tuesday in June" in first sentence.

-1971. Changed date to "third Tuesday in June".

-1969. In first sentence, substituted specific date for "the last day fixed for filing nomination petitions under this subchapter".

-1963. Amended section generally; prior to amendment section provided that names appear in alphabetical order.

ANNOTATIONS

Cited. Cited in *Bryan v. Todman*, 28 V.I. 42 (Terr. Ct. St. C. 1992).

§ 352. Furnishing election boards with list of candidates; notice to candidates

The Supervisor of Elections, as soon after the casting of lots as possible, shall forward to the board of elections a correct list of candidates for each party for the various offices, in the order in which their names will appear on the official ballots, with their respective residences, giving town, if any, and post-office addresses as shown in their affidavits; and shall at the same time, notify each such candidate by mail that his name has been so certified.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; Feb. 12, 1969, No. 2419, § 6, Sess. L. 1969, p. 66.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2876.

Amendments-1969. Amended section generally.

-1968. Substituted "election district" for "legislative district".

§ 353. Death of person named in nomination petition

Where a nomination petition has been duly filed under this subchapter, and thereafter, but prior to the printing of the official ballots, the candidate named in the petition dies, the original signers of the petition or a majority of them may sign another petition proposing a new candidate for such office at any time prior to the printing of the ballots. Such petition shall have the same force and effect as the original petition, and the name of the candidate so nominated shall be substituted for that of the deceased candidate.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(25); Feb. 12, 1969, No. 2419, § 7, Sess. L. 1969, p. 66; Nov. 15, 1971, No. 3127, §§ 5, 12, Sess. L. 1971, p. 362, 365.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2877.

Amendments-1971. Act No. 3127, sections 5 and 12, both deleted reference to candidate designated under section 349(b).

-1969. Rephrased first sentence.

-1963. Inserted provisions relating to nomination petition under section 344(c).

§ 354. Electronic voting machines, and all auxiliary equipment and other supplies for primaries

Electronic voting machines, and all auxiliary equipment, and other supplies for primaries shall be prepared, provided and delivered to district election officers, in accordance with the provisions of this title, insofar as they are applicable to primaries.

(Added Feb. 20, 1963, No. 936, § 1; amended May 3, 1984, No. 4934, § 8(a), Sess. L. 1984, p. 117.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2879.

Amendments-1984. Substituted "Electronic voting machines, and all auxiliary equipment" for "Ballots, ballot boxes" preceding "and other" in the section catchline and at the beginning of the section.

ANNOTATIONS

Cited. Cited in *Bryan v. Todman*, 28 V.I. 42 (Terr. Ct. St. C. 1992).

§ 355. Conduct of primaries; voting for candidates at large; symbol voting for entire slate

(a) Primaries shall be conducted by the district election officers and clerks, of each election district, and the votes cast thereat counted and returned in the manner provided by chapter 23 of this title, insofar as it is applicable to primaries.

(b) The names of all candidates for public office or party office in a primary election shall, in all cases, be arranged under the title of the office for which they are candidates, and each registered and enrolled elector shall be entitled to vote only for the number of candidates for each office as there are positions to be filled for such office.

(c) , (d) [Repealed.]

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(26); April 2, 1964, No. 1163, § 16, Sess. L. 1964, p. 168; April 21, 1965, No. 1437, § 8, Sess. L. 1965, Pt. I, p. 200; Aug. 13, 1966, No. 1805, § 19, Sess. L. 1966, p. 450; Sept. 1, 1966, No. 1815, § 4, Sess. L. 1966, p. 491; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; Feb. 12, 1969, No. 2419, § 8, Sess. L. 1969, p. 67; Nov. 15, 1971, No. 3127, § 8, Sess. L. 1971, p. 364.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2880.

Amendments-1971. Subsections (c), (d): Repealed.

-1969. Subsections (c), (d): Substituted reference to section 349 for reference to section 344.

-1968. Substituted "election district" for "legislative district".

-1966. Subsections (b) and (c): Amended generally by Act Aug. 13, 1966, and again by Act Sept. 1, 1966.

Subsection (d): Added by Act Aug. 13, 1966.

-1965. Subsection (c): Added.

-1964. Subsection (b): Amended generally to refer to section 343 of this title in place of section 344(c) and to refer to candidates determined for nomination under a symbol.

-1963. Added words "voting for candidates at large" to catchline; designated former section subsection (a); and added new subsection (b).

Effective date of amendments-1966. See note under section 301 of this title.

ANNOTATIONS

Cited. Cited in *Bryan v. Todman*, 28 V.I. 42 (Terr. Ct. St. C. 1992).

§ 356. Primary election returns

The returns made by the district election officers of the votes cast at primaries shall be received by the respective boards of elections, and tabulated and computed by them, and their returns to the Supervisor of Elections tabulated and computed by him in the manner provided by chapter 23 of this title, insofar as it is applicable to primaries.
(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2881.

§ 357. Which candidates nominated; district candidates; at large candidates; designation of straight party vote candidates; designation certificates

(a) The nominees of the various political parties for candidate for public office from the various election districts who receive the largest number of votes of their party electors in their districts, in the primary election, shall be declared the candidates for their respective parties, up to the number to be elected from the districts at the ensuing general election; and the Supervisor of Elections shall cause their names to be entered upon the official format for the list of candidates on the electronic voting machine to be used at such ensuing general election in accordance with the provisions of this title.

(b) The nominees of the various political parties for candidate for territorial office who receive the largest number of votes of their party electors in the territory, in the primary election, shall be declared the candidates for their respective parties, up to the number to be elected at large at the ensuing general election; and the Supervisor of Elections shall cause their names to be entered upon the official format for the list of candidates on the electronic voting machine to be used at such ensuing general election in accordance with the provisions of this title.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(27); April 2, 1964, No. 1163, § 17, Sess. L. 1964, p. 168; Aug. 13, 1966, No. 1805, § 20, Sess. L. 1966, p. 451; Sept. 1, 1966, No. 1815, § 5, Sess. L. 1966, p. 492; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; June 26, 1968 No. 2253, § 2(j), Sess. L. 1968, Pt. II, p. 76; May 3, 1984, No. 4934, § 8(b), (c), Sess. L. 1984, p. 117.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2882.

Amendments-1984. Subsection (a): Substituted "cause" for "print" preceding "their names" and "to be entered upon the official format for the list of candidates on the electronic voting machine" for "upon the official ballots" thereafter.

Subsection (b): Substituted "cause" for "print" preceding "their names" and "to be entered upon the official format for the list of candidates on the electronic voting machine" for "upon the official ballots" thereafter.

-1968. Act June 26, 1968, No. 2252, § 5, substituted "election districts" for "legislative districts".

Act June 26, 1968, No. 2253, § 2(j), substituted "public office" for "Senator" in subsection (a) and "territorial office" for "Senator at Large" in subsection (b).

-1966. Section amended generally by Act Aug. 13, 1966, to consist of only one sentence, comprising one paragraph. Prior thereto, it was composed of four subsections, (a), (b), (c) and (d). Act Sept. 1, 1966, again amended section generally, and subdivided section into subsections (a) and (b).

-1964. Subsection (b): Changed "nominated more than two candidates at large under section 344(c)" to "determined to nominate more than two candidates at large as provided by section 343".

Subsection (c): See note for subsection (b).

Subsection (d): In first sentence, changed provision that political party may at its option decide to designate two such candidates at large to provide that such party shall decide to so designate two such candidates at large.

-1963. Amended section generally.

Effective date of amendments-1968. See note under section 1 of this title.

-1966. See note under section 301 of this title.

ANNOTATIONS

Cited. Cited in *Bryan v. Todman*, 28 V.I. 42 (Terr. Ct. St. C. 1992).

§ 358. Nominee in case of tie vote

In the case of a tie, the candidates receiving the tie vote shall cast lots before the Supervisor of Elections or his deputy, as the case may be, in the manner prescribed by the Supervisor of Elections at 12 o'clock noon on the third Friday following the primary, and the one to whom the lot shall fall shall be entitled to the nomination. In any case where the fact of a tie vote is not authoritatively determined until after the third Wednesday following the primary, the time for casting lots shall be at 12 o'clock noon on the second day after the fact of such tie vote authoritatively determined. If any candidate, receiving a tie vote, fails to appear before 12 o'clock noon on such day, the Supervisor of Elections or his deputy, as the case may be, shall cast lots for him. For the purpose of casting lots, any candidate may appear in person, or by proxy appointed by him in writing.
(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2883.

§ 359. Conditions under which no primary is to be conducted

No party primary shall be conducted with regard to any public office unless the number of candidates of a particular political party who filed nomination petitions for nomination by such party for election to such public office is greater than the number of persons which such party may nominate therefor.

(Added Feb. 20, 1963, No. 936, § 1; amended April 21, 1965, No. 1437, § 5, Sess. L. 1965, Pt. I, p. 200; April 26, 1972, No. 3215, § 7, Sess. L. 1972, p. 78.)

HISTORY

Amendments-1972. Amended generally.

-1965. Added proviso authorizing a primary for write-in candidates when there are fewer nominating petitions than the number to be elected.

ANNOTATIONS

Analysis

1. Generally.
2. Loyalty oath.

1. GENERALLY.

Under this section, where the number of candidates of a political party who filed nomination petitions for nomination by such party for election exactly equals the number of persons which the party could nominate, there shall be no party primary with respect to such nominations and in such case the Supervisor of Elections shall declare the candidates who filed the petitions to be nominated for election to such office. *Canton v. Todman*, 5 V.I. 410, 259 F. Supp. 22 (D.C.V.I. 1966), affirmed C.A.3d 1966, 5 V.I. 637, 367 F.2d 1005.

2. LOYALTY OATH.

Party loyalty oath provided in Act Sept. 1, 1966, No. 1815, 11(b), with respect to persons filing for nomination for public office at 1966 primary election, pursuant to section 344 of this title, could have no application to candidates who had no party opposition and were themselves entitled to be declared the party candidates at the election. *Canton v. Todman*, 5 V.I. 637, 367 F.2d 1005 (C.A.3d 1966).

Where party nominating petitions were timely filed and the number of candidates equaled the number of seats to be filled, such candidates were entitled to be declared the regularly and validly nominated candidates of their party to be placed on the ballots for the general election; and there is nothing in the Act of Sept. 1, 1966, No. 1815, prescribing loyalty oath with respect to 1966 primary election, to preclude this. *Canton v. Todman*, 5 V.I. 637, 367 F.2d 1005 (C.A.3d 1966).

Subchapter II. Nomination of Candidates by Political Bodies

§ 381. Manner of nominating candidates by political bodies

(a) In addition to the party nominations made at primaries, nomination of candidates for any public office may be made by nomination papers signed by qualified electors of this territory or of the election district for which the nomination is made, and filed in the manner provided in this subchapter. Such nomination papers shall be in form prescribed

by the Supervisor of Elections, and no other forms than the one so prescribed shall be used for such purposes.

(b) Where the nomination is for an office to be filled by the vote of the electors of the territory at large, the nomination paper shall be signed by at least 50 qualified electors of each of at least two election districts. Where the nomination is for an office to be filled by the vote of the electors of a particular election district only, the nomination paper shall be signed by at least 50 qualified electors of such district.

(c) Each signer of a nomination paper shall declare in the paper that he is a qualified elector of the territory, or of the election district, as the case may be, and shall add his occupation and residence, giving street and number, and town if any, and the date of signing, expressed in words or numbers. No elector shall sign more than one nomination paper for each office to be filled, unless there are two or more persons to be elected to the same office, in which case he may sign nomination papers for as many candidates for such office as, and no more than, he could vote for at the ensuing election. More than one candidate may be nominated by one nomination paper and candidates for more than one office may be nominated by one nomination paper, if each political body nominating does not nominate more candidates than an elector is entitled to vote for at the ensuing election, and if all the signers on each nomination paper are qualified to vote for all the candidates nominated therein.

(d) [Repealed.]

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, No. 2252, §§ 5, 7, Sess. L. 1968, Pt. II, p. 70; June 26, 1968, No. 2253, § 2(k), Sess. L. 1968, Pt. II, p. 76; July 18, 1968, No. 2300, § 4, Sess. L. 1968, Pt. II, p. 262; Feb. 12, 1969, No. 2419, § 9, Sess. L. 1969, p. 68.)

HISTORY

Source. Former Title 18 V.I.C. § 121 (part); Purdon's Penn. Statutes, Title 25, § 2911.

Amendments-1969. Subsection (d): Repealed.

-1968. Subsection (a): Act June 26, 1968, No. 2252, § 5, substituted "election district" for "legislative district".

Subsection (b): Act June 26, 1968, No. 2253, § 2(k) deleted "except that, with respect to the Legislative District of St. John, the nomination paper shall be signed by at least 20 qualified electors of that district".

Subsection (c): Act June 26, 1968, No. 2252, § 5, substituted "election district" for "legislative district".

Subsection (d): Added by Act No. 2252 and amended generally by Act July 18, 1968, No. 2300, § 4.

Effective date of amendments-1968. Act July 18, 1968, No. 2300, § 4, provided: "Effective retroactive to June 26, 1968, subsection (d) of Section 381, Title 18, Virgin Islands Code, is hereby amended to read as follows: [as set out above]."

For effective date of Act No. 2252, see note under section 41 of this title and for Act No. 2253, see note under section 1 of this title.

ANNOTATIONS

1. CONSTITUTIONALITY.

The geographic distribution requirement for electors' signatures set forth in subsection (b) of this section, governing nomination petitions of candidates for territory-wide office, does not violate the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution by imposing a financial burden on candidates, since it does not require a candidate to personally travel from the election district where he resides to the second district to obtain the small number of signatures required. *Cyntje v. Todman*, 19 V.I. 259 (D.C.V.I. 1982).

Candidate for territory-wide office can obtain the number of electors' signatures required from a second election district at minimal cost through the use of designated agents, the mails, or both, and this minor and indirect financial impact is clearly outweighed by the recognized interest of the government in requiring some preliminary showing of a significant modicum of support before printing the name of a candidate on the ballot. *Cyntje v. Todman*, 19 V.I. 259 (D.C.V.I. 1982).

So long as the contemplated election districts are nearly equal in overall population, a requirement that signatories to a nomination petition be equally distributed among those districts is not so discriminatory as to violate constitutional guarantees. *Cyntje v. Todman*, 19 V.I. 259 (D.C.V.I. 1982).

§ 382. Composition of nomination papers; affidavit of circulator

Nomination papers may be on one or more sheets, and different sheets shall be used for signers resident in different election districts. If more than one sheet is used, they shall be bound together when offered for filing if they are intended to constitute one nomination paper, and each sheet shall be numbered consecutively, beginning with number "1", at the foot of each page. Each sheet shall have appended thereto the affidavit of a person, not necessarily a signer, and not necessarily the same person on each sheet, setting forth:

(1) that the affiant is a qualified elector of the territory of the Virgin Islands, or of the election district, as the case may be, referred to in the nomination paper;

(2) his residence, giving town with street and number if any;

(3) that the signers thereto signed with full knowledge of the contents of the nomination paper;

(4) that their respective residences are correctly stated therein;

(5) that they all reside in the election district named in the affidavit;

(6) that each signed on the date set opposite his name; and

(7) that, to the best of affiant's knowledge and belief, the signers are qualified electors of the territory of the Virgin Islands, or of the election district, as the case may be.

(Added Feb. 20, 1963, No. 936, § 1, Sess. L. 1963, p. 35; amended June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70.)

HISTORY

Source. Former Title 18 V.I.C. § 122.

Amendments-1968. Substituted "election" for "legislative" preceding "district" and "districts" wherever they appeared.

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 383. Affidavits of candidates

There shall be appended to each nomination paper offered for filing an affidavit of each candidate nominated therein, stating:

- (1) the election district in which he resides;
- (2) the name of the office for which he consents to be a candidate;
- (3) that he is eligible for such office; and
- (4) that he will not knowingly violate any provision of this title.

(Added Feb. 20, 1963, No. 936, § 1, Sess. L. 1963, p. 35; amended June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70.)

HISTORY

Amendments-1968. Paragraph (1): Substituted "election" for "legislative" preceding "district".

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 384. Contents of nomination papers; restriction on names

(a) All nomination papers filed under this subchapter shall specify:

- (1) the name or appellation, if any, of the political body which the candidates nominated thereby represent, expressed in not more than three words;
- (2) the name of each candidate nominated therein, his profession, business or occupation, if any; and his place of residence, with street and number if any; and
- (3) the office for which each such candidate is nominated.

(b) No words shall be used in any nomination paper to designate the name or appellation of the political body represented by the candidates named in such nomination paper which are identical with, or deceptively similar to, the words used for a like purpose by any existing political party as defined in section 301 of this title, or which contain part of the name or an abbreviation of the name or part of the name of any existing political party; nor shall any words be used in any nomination paper to designate the name or appellation of the political body represented by the candidate's name in such nomination paper which are identical with, or deceptively similar to, the words used for a like purpose by any political body which has already filed nomination papers for the same office, or which contain part of the name of a political body which has already filed nomination papers for the same office. Any petition to set aside a nomination paper on account of the name or appellation used therein, or involving the right of the signers thereof to use such name or appellation, shall be decided as in the case of other petitions to set aside nomination papers, in the manner provided by subchapter III of this chapter.

(c) If a nomination paper does not specify the name or appellation of a political body which the candidate represents, the candidate shall, if the requirements of this subchapter have been complied with, be designated as "Independent" in the format of the ballot as it

shall appear on the electronic voting machine' at the ensuing election, as provided in subsection (c) of section 491 of this title.

(Added Feb. 20, 1963, No. 936, § 1; amended May 3, 1984, No. 4934, § 8(d), Sess. L. 1984, p. 117.)

HISTORY

Amendments-1984. Subsection (c): Substituted "in the format of the ballot as it shall appear on the electronic voting machine" for "on the official ballot to be used" following "'Independent'".

CROSS REFERENCES

Filing of nomination papers, see § 410 of this title.

ANNOTATIONS

1. DESIGNATION OF AFFILIATION.

Gubernatorial and senatorial candidates with no political party affiliation must run as independents., 8 V.I.Op.A.G. 174.

§ 385. Repealed. Oct. 21, 1988, No. 5367, § 4(4), Sess. L. 1988, p. 254.

HISTORY

Former section 385, which was derived from Act Feb. 20, 1963, No. 936, § 1, and amended by Acts Aug. 13, 1966, No. 1805, § 9, Sess. L. 1966, p. 445; May 29, 1968, No. 2214, § 5, Sess. L. 1968, Pt. II, p. 20; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; Feb. 12, 1969, No. 2419, § 10, Sess. L. 1969, p. 68; and Nov. 15, 1971, No. 3127, § 13, Sess. L. 1971, p. 365, related to time for filing of nomination papers.

Effective date of repeal. Act Oct. 21, 1988, No. 5367, § 8(b), Sess. L. 1988, p. 254, provided that section 4(4) of the act, which repealed this section, shall take effect Jan. 1, 1990.

Subchapter III. Filing; Objections; Withdrawals; Substitutions; Position on Election Ballot; Certifications

HISTORY

Amendments-1988. Act Oct. 21, 1988, No. 5367, § 4(1), Sess. L. 1988, p. 253, added "Filing" preceding "Objections" in the subchapter heading.

Effective date of amendments-1988. Act Oct. 21, 1988, No. 5367, § 8(b), Sess. L. 1988, p. 254, provided that section 4(1) of the Act, which amended the subchapter heading, shall take effect Jan. 1, 1990.

§ 410. Filing time for nomination

(a) Nomination petitions filed pursuant to section 344 of this chapter and nomination papers filed pursuant to subchapter II of this chapter must be filed:

(1) with the Supervisor of Elections, in the election district in which the candidate resides; and

(2) after noon on the first Tuesday of August of each general election year and before 5 p.m. seven (7) calendar days thereafter.

(b) In any general election year a person may file either a nomination petition pursuant to section 344 of this chapter or a nomination paper pursuant to subchapter II, but not both.

(c) Nothing in this section shall be construed to require any person not filing as a member of a political body to run in the primary election.

(Added Oct. 21, 1988, No. 5367, § 4(2), Sess. L. 1988, p. 253.)

HISTORY

Revision note. Substituted "subchapter II of this chapter" for "subchapter II" in the introductory paragraph of subsec. (a) for purposes of conformity with V.I.C. style pursuant to section 14 of Title 1.

Effective date. Act Oct. 21, 1988, No. 5367, § 8(b), Sess. L. 1988, p. 254, provided that section 4(2) of the act, which added this section, shall take effect Jan. 1, 1990.

§ 411. Examination of nomination petitions, papers, and certificates; notice of defects

(a) The Supervisor of Elections or his deputy shall forthwith examine the nomination petitions, nomination papers or nomination certificates filed with him under this chapter and shall permit them to be examined by any interested citizen. If the identity of any signer is unknown to him or if the identity or capacity of any signer seems to him doubtful or is challenged by any citizen, the Supervisor of Elections or his deputy within three days after the close of the nomination period shall hold a public hearing in the election district in which the signer in question purports to reside, to which hearing such signer and any material witnesses may be summoned. The Supervisor of Elections or his deputy shall determine the signer's identity and capacity and ascertain that the candidates have been validly nominated.

(b) If the Supervisor determines that a candidate for election or nomination does not meet the qualifications established by law for the office, then he shall disqualify such candidate and delete the candidate's name from the ballot if the ballots have not been printed.

(c) When a nomination petition, nomination paper or nomination certificate is found to be defective the candidate shall be notified immediately by special messenger with the

reason or reasons therefor. If a new, valid petition, paper or certificate is not filed within three days thereafter the candidate shall be disqualified for nomination or election.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; June 26, 1968, No. 2253, § 2 (l), Sess. L. 1968, Pt. II, p. 76.)

HISTORY

Source. Former Title 18 V.I.C. §§ 124, 125.

Amendments-1968. Act June 26, 1968, No. 2253, § 2 (l), redesignated subsection "(b)" as "(c)", added new subsection "(b)".

Act June 26, 1968, No. 2252, § 5, substituted "election district" for "legislative district".

Effective date of amendments-1968. See note under section 1 of this title.

ANNOTATIONS

1. REVIEW.

Where a political dispute is not within the terms of this section, a resort to the judicial review provided by section 412 of this title is improper. *Alexander v. Todman*, 5 V.I. 137, 337 F.2d 962 (C.A.3d 1964).

Cited. Cited in *Moorhead v. Government of V.I.*, 18 V.I. 237 (Terr. Ct. St. C. 1982).

§ 412. Objections to nomination petitions and papers

All nomination petitions and nomination papers received and filed under this chapter, and accepted after the examination required by section 411 of this title, shall be deemed to be valid, unless, within five days after the last day for filing such nomination petition or papers, a petition is presented to the district court, specifically setting forth the objections thereto, and praying that such petition or paper be set aside. A copy of the petition shall, within such period, be served on the officer with whom the nomination petition or paper was filed. Upon the presentation of such a petition the court shall make an order fixing a time for hearing which shall not be later than 10 days after the last day for filing such nomination petition or paper, and specifying the time and manner of notice that shall be given to the candidate named in the nomination petition or paper sought to be set aside. On the day fixed for the hearing, the court shall proceed without delay to hear such objections, and shall give the hearing precedence over any other business before it, and shall finally determine the matter not later than 15 days after the last day for filing such nomination petitions or papers. If the court finds that the nomination petition or paper is defective under the provisions of section 411 of this title, or that it does not contain a sufficient number of genuine signatures of electors entitled to sign it under the provisions of this chapter, or was not filed by persons entitled to file it, it shall be set aside. If the objections relate to material errors or defects apparent on the face of the nomination petition or paper, or on the face of the accompanying or appended affidavits,

the court, after hearing, may, in its discretion, permit amendments within such time and upon such terms as to payment of costs, as the court may specify. In case a petition under this section is dismissed, the court shall make such order as to the payment of the cost of the proceeding, including witness fees, as it shall deem just. If a person shall sign any nomination petitions or papers for a greater number of candidates than he is permitted under the provisions of this chapter, if such signatures bear the same date, they shall, upon objections filed thereto, not be counted on any petition or paper and if they bear different dates, they shall be counted in the order of their priority of date, for only so many persons as there are candidates to be nominated or voted for by an elector at the general election.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2937.

ANNOTATIONS

Analysis

1. Applicability.
2. Petition-Generally.
3. - Time for presentation.
4. - Sufficiency.
5. Review.

1. APPLICABILITY.

This section, providing that a nomination petition or paper will be deemed valid unless objected to by an interested citizen within five days after the last day for filing such nomination petition or paper, did not estop the Supervisor of Elections from removing a person's name from the ballot in a general election, on the ground that his past imprisonment for a felony disqualified him from holding public office, after the five-day period had expired, since nothing in the section indicates that the mechanism provided for in the section is directly applicable to the Supervisor of Elections. *Moorhead v. Government of V.I.*, 18 V.I. 237 (Terr. Ct. St. C. 1982).

2. PETITION-GENERALLY.

In addition to mere filing, this section requires that a petition brought thereunder be brought to the attention of the judge, by motion or otherwise. *Williams v. Todman*, 5 V.I. 644, 367 F.2d 1009 (C.A.3d 1966).

Presenting a petition to the court usually means bringing it to the attention of the judge, by a motion or otherwise, for action. *Williams v. Todman*, 5 V.I. 644, 367 F.2d 1009 (C.A.3d 1966).

Filing a petition in a court ordinarily means lodging it in the clerk's office to remain there until action on it is called for. *Williams v. Todman*, 5 V.I. 644, 367 F.2d 1009 (C.A.3d 1966).

3. - TIME FOR PRESENTATION.

Where plaintiff had not presented his petition within the period provided by this section for bringing it court could not act. *Williams v. Todman*, 5 V.I. 644, 367 F.2d 1009 (C.A.3d 1966).

The time limits for bringing petitions under this section are mandatory, not directory, and a petitioner must prosecute his petition with a diligence and in compliance with them. *Williams v. Todman*, 5 V.I. 644, 367 F.2d 1009 (C.A.3d 1966).

4. - SUFFICIENCY.

A petition under this section which fails to set forth specifically the plaintiff's objections to the nomination petition in question is fatally defective. *Williams v. Todman*, 5 V.I. 644, 367 F.2d 1009 (C.A.3d 1966).

Amended petition under this section which does set forth specific objections to nomination petitions does not cure defect in original petition if amended petition is filed too late. *Williams v. Todman*, 5 V.I. 644, 367 F.2d 1009 (C.A.3d 1966).

5. REVIEW.

Where a political dispute is not within the terms of section 411 of this title, a resort to the judicial review provided by this section is improper. *Alexander v. Todman*, 5 V.I. 137, 337 F.2d 962 (C.A.3d 1964).

Remedies provided by this section need not be exhausted as a prerequisite to judicial review, in a dispute alleging fraud and conspiracy in party registration. *Alexander v. Todman*, 5 V.I. 137, 337 F.2d 962 (C.A.3d 1964).

§ 413. Withdrawal of nominated candidates

Any person who has been nominated for a public office at a primary or by nomination papers may withdraw his name from nomination by request in writing, signed by him and acknowledged before an officer qualified to take acknowledgments of deeds, and filed in the office of the Supervisor of Elections or of his deputy in the election district in which such person resides. Such a written withdrawal, to be effective, shall be received in the office of the Supervisor of Elections or his designee within 5 days after the final date for filing nomination papers and nomination petitions as provided pursuant to section 410 of this chapter, and not later than 5 p.m. on the last day for filing the withdrawal. No name so withdrawn shall be printed upon the ballot. No candidate may withdraw any withdrawal notice already received and filed, and thereby reinstate his nomination.

(Added Feb. 20, 1963, No. 936, § 1; amended Aug. 13, 1966, No. 1805, § 10, Sess. L. 1966, p. 445; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; Aug. 28, 1972, No. 3296, § 1, Sess. L. 1972, p. 433; July 12, 1978, No. 4129, § 11, Sess. L. 1978, p. 152; Oct. 21, 1988, No. 5367, § 4(3), Sess. L. 1988, p. 254.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2938; former Title 18 V.I.C. § 126.

Amendments-1988. Substituted "and nomination petitions as provided pursuant to section 410 of this chapter, and not later than 5 p.m." for "as provided in section 385 of this chapter, and not later than the ordinary closing hour of such office" following "nomination papers" in the second sentence.

-1978. Substituted "5" for "45" days in the second sentence.

-1972. In the second sentence substituted "or his designee" for "or of his deputy"; changed withdrawal date and inserted reference to section 385.

-1968. Substituted "election district" for "legislative district".

-1966. Extended minimum time for withdrawals from 25 to 29 days in second sentence.

Effective date of amendments-1988. Act Oct. 21, 1988, No. 5367, § 8(b), Sess. L. 1988, p. 254, provided that section 4(3) of the act, which amended this section, shall take effect Jan. 1, 1990.

-1978. Act No. 4156 effective as of July 12, 1978, see note set out under section 91 of this title.

§ 414. Substituted nominations by parties

(a) Any vacancy occurring or existing after the date of the primary in any party nomination, by reason of the death or withdrawal of any candidate, may be filled by a substituted nomination made by such committee as is authorized by the rules of the party to make nominations if there are vacancies in the party ticket.

(b) Upon the making of a substituted nomination referred to in subsection (a) of this section in accordance with the party rules, the chairman and secretary of the party committee making the nomination shall file with the Supervisor of Elections or with his deputy in the election district in which the substituted candidate resides, a nomination certificate which shall be signed by the chairman and secretary of such committee.

(c) The nomination certificate shall set forth -

(1) the office and the election district, if any, for which it is filed;

(2) the cause of the vacancy;

(3) the rule or rules of the political party, setting forth the provisions applicable to a substituted nomination;

(4) that a quorum of the committee, caucus, or convention, as provided by the party rules, duly convened, and the names of those present at the meeting and all proxies;

(5) that such persons are the duly appointed or elected members of such committee, caucus, or convention;

(6) the name, residence, and occupation of the candidate duly nominated at such meeting; and

(7) a statement by, and under the signature of the candidate duly nominated that he is an enrolled member of the political party nominating him, and that he accepts the nomination.

(d) Every certificate of nomination prepared and filed under this section shall be sworn to or affirmed by the chairman and secretary of the committee before an officer qualified to administer oaths.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; Feb. 12, 1969, No. 2419, § 11, Sess. L. 1969, p. 68.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2939.

Amendments-1969. Subdivision (c)(7): Added.

-1968. Substituted "election district" for "legislative district".

Effective date of amendments-1968. See note under section 41 of this title.

§ 415. Substituted nominations by political bodies

In the case of the death or withdrawal of any candidate nominated by a political body by nomination papers, the persons who signed the nomination paper, or a majority of them if such majority meets the requirement as to minimum number of signers, as prescribed in section 381 of this title, may nominate a substitute in his place by filing in the proper office a substitute nomination paper, executed in the manner and form prescribed by sections 381-384 of this title. Such substituted nomination paper shall be accompanied by an affidavit of the substituted candidate identical with that required under section 383 of this title, and by a verified statement, signed by all the persons signing the substitute nomination paper, setting forth the fact of the death or withdrawal of the candidate originally nominated. If the vacancy is caused by the death of a candidate, the substitute nomination paper shall also be accompanied by a death certificate, properly certified.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2940.

§ 416. Time for filing substituted nomination certificates and papers

Substituted nomination certificates and substitute nomination papers to fill vacancies caused by withdrawal or death of candidates nominated at primaries or by nomination papers shall be filed with the Supervisor of Elections or his deputy:

(1) within 5 days after the last day for filing for withdrawals by nominated candidates as provided in section 413 of this chapter, if the vacancy was caused by the withdrawal of the original candidate; or

(2) at any time prior to the day on which the printing of the ballots is commenced if the vacancy was caused by the death of the original candidate.

(Added Feb. 20, 1963, No. 936, § 1; amended Aug. 13, 1966, No. 1805, § 11, Sess. L. 1966, p. 445; Aug. 28, 1972, No. 3296, § 2, Sess. L. 1972, p. 433; July 12, 1978, No. 4156, § 12, Sess. L. 1978, p. 153.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2941.

Amendments-1978. Paragraph (1): Substituted "5" for "10" preceding "days".

-1972. Paragraph (1): Substituted 10 days for 28 days.

-1966. Introductory clause: Omitted ", as the case may be" at end.

Paragraph (1): Substituted 28 days for 20 days.

Effective date of amendments-1978. Act No. 4156 effective as of July 12, 1978, see note set out under section 91 of this title.

§ 417. Objections to substituted nomination certificates and papers

All substituted nomination certificates and substitute nomination papers may be objected to in the manner provided in section 412 of this title, except that:

(1) any such objections shall be filed within three days after the filing of the substituted nomination certificate or substitute nomination paper; and

(2) no objections as to form and conformity to law shall be received after the day on which the printing of ballots is commenced.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2942.

§ 418. Preservation of nomination petitions, certificates and papers

All nomination petitions, certificates and papers shall be preserved in the offices in which they have been filed for a period of at least two years.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2943.

§ 419. Casting of lots for position of names upon official election ballot; notice to candidates

Immediately after the last day is fixed for the withdrawal of nominated candidates under section 413 of this subchapter, the Supervisor of Elections shall fix a day for the casting of lots, in such manner as he prescribes, for the position of the names upon the official election ballot of all candidates nominated for the election by the vote of party electors at the immediately preceding primary, and nominated for election by nomination papers. The Supervisor of Elections shall give at least two days' notice of such date by mail to each of the candidates and by publication in the local newspapers circulating in the Virgin Islands or district, as the case may be. Each candidate may appear in person, or by an agent duly authorized by letter of attorney, signed and acknowledged by an

officer empowered to take acknowledgments. If any candidate is not present in person or by representative at the time of the casting of lots, the Supervisor of Elections or his designee shall draw for such candidate. After the lots are cast, the Supervisor of Elections shall establish accordingly the order in which the names of such candidates are to appear on the official election ballot.

(Added Feb. 20, 1963, No. 936, § 1; amended Aug. 13, 1966, No. 1805, § 12, Sess. L. 1966, p. 445; May 29, 1968, No. 2214, § 6, Sess. L. 1968, Pt. II, p. 21.)

HISTORY

Amendments-1968. In next to last sentence, substituted "Supervisor of Elections" for "Government Secretary" and omitted reference to the Revised Organic Act.

-1966. Amended section generally.

CROSS REFERENCES

For provisions of the Organic Act relating to the order of names upon the ballot, see section 5(b) of the Revised Organic Act of the Virgin Islands, app. July 22, 1954 (48 U.S.C. § 1571), set out preceding Title 1.

§ 420. Certificate of nominees by Supervisor of Elections

As soon as possible after the casting of lots, as provided for in section 419 of this subchapter, the Supervisor of Elections shall have published in public newspapers of general circulation an official list, certified by him, of all candidates who have been nominated in accordance with the provisions of this chapter, in the order in which their names will appear upon the official election ballot.

(Added Feb. 20, 1963, No. 936, § 1; amended May 29, 1968, No. 2214, § 7, Sess. L. 1968, Pt. II, p. 21; amended May 3, 1984, No. 4934, § 8(f), Sess. L. 1984, p. 117.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2944.

Amendments-1984. Substituted "Supervisor of Elections" for "Government Secretary" in the section catchline.

-1968. Amended generally.

Chapter 19. Ballots and Ballot Boxes

Subchapter I. General Requirements.

451. Preparation of ballot.

Subchapter II. Official Primary Ballot.

471. Form of primary ballots.

472. [Repealed.]

473. Sample ballots.

Subchapter III. Official Election Ballot.

491. Emblems of parties.

492. Form and color of official election ballot.

493. Number; samples.

Subchapter IV. Electronic Voting Machines; Official Election Format.

501. Electronic voting machines; format.

502. Form for referenda.

503. Facsimile and sample.

504. Examination by voters and instruction in use of electronic voting machines.

505. [Repealed.]

506. Testing of tabulating equipment.

507. Examination of equipment during voting.

508. Election contests.

Subchapter V. Miscellaneous Provisions.

511. Candidates with similar surnames; printing occupation.

512. Names of substituted candidates to be printed.

513. Responsibility for accurate printing and safekeeping.

514. Instructions for voters.

515. Delivery of ballots to boards.

516. Receipts for ballots.

517. Ballot boxes.

Subchapter I. General Requirements

HISTORY

Reapportionment of Legislature; provisional repeal of certain laws. Establishment of Commission on Reapportionment of the Legislature for purpose of preparing and submitting to

Legislature, by January 9, 1968, a recommended plan for reapportionment of the Legislature, and provisional repeal of all provisions of this title which refer to legislative districts of St. Thomas, St. Croix, and St. John, see Acts Feb. 15, 1967, No. 1850; Sept. 18, 1967, No. 2054, set out in note preceding chapter 1 of this title.

§ 451. Preparation of ballot

All primaries and elections in the Virgin Islands shall be conducted by ballot. The Supervisor of Elections shall, prior to each primary and election, prepare the format of the ballot as it shall appear on the electronic voting machine in the form prescribed by this chapter. Instructions on each official ballot shall be printed in both the English language and the Spanish language.

(Added Feb. 20, 1963, No. 936, § 1, Sess. L. 1963, p. 35; amended June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70; Aug. 26, 1970, No. 2793, Sess. L. 1970, p. 289; May 3, 1984, No. 4934, § 9(a), Sess. L. 1984, p. 118.)

HISTORY

Source. Former Title 18 V.I.C. § 201; Purdon's Penn. Statutes, Title 25, §§ 2961, 2964.

Amendments-1984. Rewrote the section catchline, substituted "the format of the ballot as it shall appear on the electronic voting machine" for "and have printed" following "prepare" and deleted "the official ballots to be used in each election district thereof, and furnish them to the respective boards of elections for such purpose" following "chapter" in the second sentence, and deleted the former third sentence.

-1970. Added last sentence providing for the printing of official ballots in both the English and Spanish languages.

-1968. Substituted "election" for "legislative" preceding "district" in the second sentence.

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

Subchapter II. Official Primary Ballot

§ 471. Form of primary ballots

(a) At primaries separate ballots shall be prepared for each political party, and the electronic voting machines shall be set so that the elector may vote the ballot of only the political party in which he is registered.

(b) The ballot to be used at primary elections shall appear on the electronic voting machine in substantially the following form:

OFFICIAL (Name of Party) PARTY PRIMARY BALLOT
Election District of _____, Virgin Islands,
Primary election held on the _____ day of _____,
19_____. To vote for a candidate, depress button opposite name of that
candidate. If you desire to vote for a person whose name is not on the ballot,
write or paste his name in the blank space provided for that purpose.

Governor and Lieutenant Governor

(Select one only)

John Hill (for Governor)
Fred Mill (for Lieutenant Governor)
Earl Smith (for Governor)
Frank Jones (for Lieutenant Governor)

Senator-at-Large - Resident of St. John

(Select one only)

John Doe
Richard Doe
Thomas James
John Stiles
Alice Moore
Joe Boyles
Henry Black

Senator, District of _____

(Select one only)

Jack Brown
Joe Smith
Mary White
Bill Budd
Thomas Green
Frank Rose
Jim Martin
Bud Williams
John Robinson
Tom Swift
Bruce Baker

Virgin Islands Delegate to United States House of Representatives

(Select one only)

David Mark
Allen Foster

Member of the Territorial Committee

District of _____

(Select no more than _____)

Ann Wilson
Henry Lewis
Bruce James
Joe Blow

The names of all candidates shall in all cases be arranged under the title of the office for which they are candidates, and be listed thereunder in the order determined by the casting of lots as provided by section 351 of this title. There shall be at the left at the end

of the list of candidates for each office (or under the title of the office itself in the case there be no candidates who have filed nomination petitions therefor) as many blank spaces as there are persons to be voted for, for such office, in which space the elector may insert the name of any person whose name is not printed on the ballot as a candidate for such office. Opposite or under the name of each candidate, who is to be voted for by the electors at large, shall be printed the name of the election district in which such candidate resides; and opposite or under the name of each candidate who is to be voted for by the electors of an election district shall be printed the name of the polling district in which such candidate resides. At the bottom of the ballot shall appear the facsimile signature of the Supervisor of Elections.

The ballot shall vary in form only as the names of election districts, offices, candidates or the provisions of this title may require.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(28); April 2, 1964, No. 1163, § 18, Sess. L. 1964, p. 168; Sept. 1, 1966, No. 1815, § 6, Sess. L. 1966, p. 492; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; June 26, 1968, No. 2253, § 2(m), Sess. L. 1968, Pt. II, p. 76; July 18, 1968, No. 2300, § 5, Sess. L. 1968, Pt. II, p. 262; Feb. 12, 1969, No. 2419, § 12, Sess. L. 1969, p. 69; Nov. 15, 1971, No. 3127, § 6, Sess. L. 1971, p. 362; April 26, 1972, No. 3215, § 8, Sess. L. 1972, p. 78; July 10, 1972, No. 3247, § 1, Sess. L. 1972, p. 174; May 3, 1984, No. 4934, § 9(b), Sess. L. 1984, p. 118.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2961.

Amendments-1984. Amended section generally.

-1972. Subsection (b): Act No. 3215 substituted in last sentence "Use either blue or black pen or pencil only" for "Use only pencil", and Act No. 3247 amended subsection generally.

-1971. Subsection (b): Omitted provisions relating to slate and split voting.

-1969. Subsection (b): Amended generally.

-1968. Subsection (b): Act No. 2300 amended bracketed material preceding heading "Slate Column" by adding phrase beginning "and any other public offices. . .". Act No. 2253 changed number under "Senator at Large" from "Four" to "Two" and added provisions relating to St. Thomas - St. John. Number 2300 amended bracketed material preceding heading "Slate Column" by adding phrase beginning "and any other public offices . . .". Act No. 2252 substituted "election district" for "legislative district".

-1966. Subsection (b): Amended to include all references to slates, by adding the two paragraphs preceding the center line "Senator at Large", and the "Slate Column" at end of subsection.

-1964. Subsection (b): In captions changed "Candidate for Senator at Large" to "Senator at Large" and "Candidate for Senator, District of --" to "Senator, District of --" and changed voting instructions from "(Vote for not more than --)" to "(Vote for --)".

-1963. Subsection (b): Struck out sample of ballot relating to member of Legislature at Large and substituted sample relating to Candidate for Senator at Large and Candidate for Senator, District of --.

Effective date of amendments-1968. For effective date of Act No. 2252, see note under section 41 of this title, and for Act No. 2253, see note under section 1 of this title.

-1966. See note under section 301 of this title.

ANNOTATIONS

1. RUNNING MATES.

A candidate for Governor or Lieutenant Governor must file with a running mate., 7 V.I.Op.A.G. 307.

§ 472. Repealed. May 3, 1984, No. 4934, § 9(c), Sess. L. 1984, p.120.

HISTORY

Former section 472, which was derived from Act Feb. 20, 1963, No. 936, § 1, related to the color of primary ballots.

§ 473. Sample ballots

For each primary, the Supervisor of Elections shall furnish to the board of elections of each legislative district sample ballots of each party in similar form to the official ballot, printed on white paper and without the facsimile endorsement of the Supervisor of Elections, equal in number to one-fifth of the number of ballots cast for each political party in the preceding primary election for each polling district within the legislative district. The sample ballots shall be of the same size and form as the official primary ballots.

(Added Feb. 20, 1963, No. 936, § 1, Sess. L. 1963, p. 35; amended June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70; May 3, 1984, No. 4934, § 9(d), Sess. L. 1984, p. 120.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2967; New Hampshire law, N.H.R.S.A. 56:33.

Amendments-1984. Amended section generally.

-1968. Substituted "election" for "legislative" in the first and second sentences.

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

Subchapter III. Official Election Ballot

§ 491. Emblems of parties

(a) Each political party as determined by the Supervisor of Elections within the meaning of section 301 of this title shall be entitled to submit to the Supervisor of Elections not later than five days after the primary in the election year a party emblem to be entered on the format of the ballot as it shall appear on the electronic voting machine.

(b) No political party shall adopt as an emblem one which has been previously used or adopted by another political party, either in whole or in part, if such other party still claims and uses such emblem; nor shall any political party use as an emblem on an election ballot the flag or coat of arms of the United States or the Territory of the Virgin Islands, or any religious symbol. If two or more emblems equal or similar, in whole or in part, are presented to him at the same time, the Supervisor of Elections shall decide by lot or drawing to which emblem priority belongs. The said lot or drawing shall be made in the presence of representatives of the parties affected. The Supervisor of Elections shall refuse to accept any emblem of a political party which violates the provisions of this section. If any political party fails to register its emblem with the Supervisor of Elections on or before twelve o'clock noon on August 1 of the year of the election in which it is to be used, as required by this section, the Supervisor of Elections shall designate an emblem for such party which shall be used to distinguish the said party on the official ballot.

(c) Any political party desiring to change its name or emblem may do so on certificate of the territorial committee of said party, filed in the office of the Supervisor of Elections, and such party shall not therefore lose the rights and privileges granted thereto by law as such political party.

(d) [Repealed.]

(Added Feb. 20, 1963, No. 936, § 1; amended April 2, 1964, No. 1163, § 19, Sess. L. 1964, p. 168; Feb. 12, 1969, No. 2419, § 13, Sess. L. 1969, p. 71; May 3, 1984, No. 4934, § 8(g), Sess. L. 1984, p. 118.)

HISTORY

References in text. Subsection (d) of this section, referred to in subsection (a), was deleted in 1964, apparently without reference to the subsection (a) reference to it.

Amendments-1984. Subsection (a): Substituted "be entered on the format of the ballot as it shall appear on the electronic voting machine" for "printed on the official ballot, as provided in subsection (d) of this section" following "emblem to be".

-1969. Subsection (a): Changed time of filing emblem to a time "not later than five days after the primary".

-1964. Subsection (a): Changed "not more than two emblems" to "a party emblem".

Subsection (b): In last sentence, changed "emblems" to "emblem".

Subsection (c): Changed "emblems" to "emblem".

Subsection (d): Repealed.

§ 492. Form and color of official election ballot

(a) The official ballot to be used at general elections shall appear on the electronic voting machine in substantially the following form:

OFFICIAL ELECTION BALLOT

Election District of _____ Virgin Islands General

Elections held on the _____ day of November _____

To vote for any individual candidate depress the button opposite the name of that candidate.

To vote a straight party ticket, that is for all candidates of a particular party, depress the button opposite the name, emblem or symbol of the party of your choice.

If the political party you have selected does not have a complete slate of candidates, you may vote for additional candidates so that the total number of candidates from the political party you have selected plus the additional candidates does not exceed the total number for which you are entitled to vote.

DO NOT SELECT MORE THAN ONE PARTY EMBLEM OR SYMBOL

To vote for a person whose name is not on the ballot, write or paste his name in the blank space provided for that purpose.

PARTY COLUMN

Party "(A)" (emblem)

Party "(B)" (emblem)

Governor and Lieutenant Governor

(Select one only)

John Hill (for Governor)	Party "A"
Fred Mill (for Lieutenant Governor)	
Tom Smith (for Governor)	Party "B"
Frank Jones (for Lieutenant Governor)	
Sam Allen (for Governor)	Citizens
Jim Hart (for Lieutenant Governor)	

Senator-at-Large - Resident of St. John

(Select one only)

John Doe	Party "A"
Mary Smith	Party "B"
Richard Roe	Citizens
Jane Gray	Independent

Senator, District of _____

(Select no more than seven)

Jack Brown	Party "A"
Frank Rose	Independent
Billy Wilson	Citizens
Tom Swift	Party "A"
Jim Stevens	Citizens
Fred David	Party "B"
John Penn	Party "A"
Mary White	Party "A"
Mickey Morton	Citizens

Willy Moor
Ringo Ryan
Billy Budd
Juan Fulano
Lucy Lamb
Jim Martin
James Bond
George James
Alice Brown
Fred Thomas

Independent
Party "B"
Party "A"
Party "B"
Party "B"
Party "A"
Party "B"
Independent
Party "A"
Party "B"

(In the same manner and form, insert any other public offices to be elected at the general election).

(b) The names of the candidates shall, in all cases, be arranged under the title of the office for which they are candidates, and shall be printed thereunder in the order determined by a casting of lots as provided by section 419 of this title.

(c) On the back of each ballot shall be printed in prominent type the words "OFFICIAL BALLOT" followed by the designation of the polling district for which it is prepared, the date of the election and the facsimile signature of the Supervisor of Elections.

(d) Opposite or under the name of each candidate shall be printed the name of the political party or political body which nominated him, and opposite and under the name of each candidate nominated by nomination papers which did not specify the name or appellation of the political body which he represents, shall be printed the word "Independent", and at the right of such party name or designation there shall be a square of sufficient size for the convenient insertion of a crossmark.

(e) Whenever any candidate shall receive more than one nomination for the same office, his name shall be printed once, and the names of each political party or body so nominating him shall be printed opposite the name of such candidate, arranged in the same order as those names are arranged in the Party Column. At the right of every party name or appellation shall be a square of sufficient size for the convenient insertion of a crossmark.

(f) In order that each elector may have the opportunity at an election of designating his choice for all the candidates nominated by one political party, there shall be printed at the top of the ballot and separated from the remainder of the ballot by a space of at least one-half inch, a Party Column containing a list of the names of all of the political parties represented on such ballot which shall have nominated candidates to be voted for at such election. Such names shall be arranged in the order of the total number of votes obtained at the last general election by all the candidates for Senator at Large of the respective parties represented on the ballot, beginning with the party that received the highest such total number of votes. Following the names of such political parties shall be the names of the parties not represented on the ballot at the last general election, arranged alphabetically according to the party name or appellation. The party emblem and a square of sufficient size for the convenient insertion of a crossmark shall be placed at the right of each party name or appellation.

(g) The official ballots shall vary in form only as the names of election districts, offices, candidates or the provisions of this title may require.

(h). Elections of the Boards of Elections and the Board of Education shall be conducted on a separate ballot which shall be substantially in the same form as the ballot form set forth in subsection (a) of this section, except as follows:

(1) The ballot shall be on colored paper and shall be headed, under the words "Official Ballot", "Board of Elections and Board of Education".

(2) For the Boards of Elections, there shall be printed on the ballot for the St. Croix election district under a heading "Board of Election-St. Croix Election District", the words "(vote for not more than ten)"; and there shall be printed on the ballot for the St. Thomas-St. John election district under a heading "Board of Election-St. Thomas-St. John Election District", the following language.

Each elector may vote for a total of ten (10) candidates.

1. Candidates resident in St. John (Vote for not more than two (2) in this column).

2. Candidates resident in St. Thomas (Vote for not more than eight (8) in this column).

(3) Ballots for the Boards of Elections and the Board of Education shall not carry a party column.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(29); April 2, 1964, No. 1163, § 20, Sess. L. 1964, p. 169; Aug. 13, 1966, No. 1805, § 14, Sess. L. 1966, p. 446; Sept. 1, 1966, No. 1815, § 7, Sess. L. 1966, p. 494; June 26, 1968, No. 2252, §§ 5, 8, Sess. L. 1968, Pt. II, p. 70; June 26, 1968, No. 2253, § 2(n), Sess. L. 1968, Pt. II, p. 76; July 18, 1968, No. 2300, § 6, Sess. L. 1968, Pt. II, p. 262; Oct. 4, 1968, No. 2342, § 3, Sess. L. 1968, Pt. II, p. 335; Feb. 12, 1969, No. 2419, §§ 14, 15, 17, Sess. L. 1969, p. 71; April 26, 1972, No. 3215, § 9, Sess. L. 1972, p. 78; July 10, 1972, No. 3247, §§ 2, 5, Sess. L. 1972, p. 176; May 3, 1984, No. 4934, § 9(f), Sess. L. 1984, p. 120.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, §§ 2963, 2964; former Title 18 V.I.C. § 201.

Amendments-1984. Subsection (a): Amended generally.

-1972. Subsection (a): No. 3215, § 9, amended the seventh line heading by substituting "USE EITHER BLUE OR BLACK PEN OR PENCIL ONLY" for "USE ONLY PENCIL". No. 3247, § 2, amended that portion designated "PARTY COLUMN" generally.

Subdivision (h)(3): Added by Act No. 3247, § 5.

-1969. Subsection (a): Amended generally.

Subsection (f): Substituted words "at the top" of the ballot for "on the bottom" of the ballot.

Subsection (h): Amended generally.

-1968. Subsection (a): Act No. 2253 changed number under "Senator at Large" from "Four" to "Two" and added provisions relating to St. Thomas-St. John. Act No. 2300 added bracketed language preceding "Party Column". Act No. 2342, amended provisions relating to St. Thomas-St. John as added by No. 2253 generally.

Subsection (h): Act No. 2252, § 8, added this subsection. Act No. 2342 amended subdivision (3) generally and added a new subdivision (5), which amendment was repealed by Act No. 2419.

Section 5 of No. 2252 substituted the words "election districts" or "election district" for "legislative districts" and "legislative district".

-1966. Act Sept. 1, 1966, amended section generally. Prior thereto, Act Aug. 13, 1966, had amended subsection (g) generally.

-1964. Subsection (a): Changed "To vote for an individual candidate of a party, or for an independent candidate, mark a cross (X) opposite his name." to "To vote for an individual candidate of another party, or for an independent candidate, after making a mark in the party square, mark a cross (X) opposite his name.".

Subsection (g): Struck out from end of second sentence: "beginning with the party that received the highest total number of votes cast" and, in last sentence, deleted requirement for party emblem at right of each party name or appellation.

-1963. Amended section generally.

Effective date of amendments-1968. For effective date of Act No. 2252, see note under section 41 of this title, and for Act No. 2253, see note under section 1 of this title.

-1966. See note under section 301 of this title.

ANNOTATIONS

Analysis

1. Names of candidates.
2. Marking.

1. NAMES OF CANDIDATES.

A candidate is not allowed to put both his name and a nickname on the election ballot, though one who has always been known by a nickname may use it instead of his given name., 3 V.I.Op.A.G. 310.

In placing his name on a ballot, a candidate should use the name as it appeared on the nominating petition, as he does not have the right to change the name by which he was nominated after the petition is filed., 3 V.I.Op.A.G. 310.

2. MARKING.

If there is only one candidate for a public office, the general election ballot should not be in a "yes" or "no" form; provision must be made for voting for the individual by making a cross mark (X) in a square opposite the name of the candidate., 7 V.I.Op.A.G. 360.

Cited. Cited in *Democratic Party v. Board of Elections*, 22 V.I. 465, 649 F. Supp. 1549 (D.C.V.I. 1986); *Stapleton v. Board of Elections*, 821 F.2d 191 (C.A.3d 1987).

§ 493. Number; samples

(a) For each election district in which a general election is to be held, the Supervisor of Elections shall furnish to the board of elections thereof 50 official election ballots for every 45 registered electors and fraction thereof in each polling district within the

election district. In addition, the Supervisor of Elections shall furnish to each such board sample ballots, printed on colored paper and without the facsimile endorsement of the Supervisor of Elections, equal in number to one-fifth of the number of official election ballots to be furnished by the board to the election officers for each polling district within the election district. The sample ballots shall be of the same size and form as the official election ballots.

(b) The Supervisor shall, upon timely request, furnish each candidate with up to twenty (20) sample ballots at least fifteen (15) days prior to the general election.

(Added Feb. 20, 1963, No. 936, § 1; amended April 21, 1965, No. 1437, § 6, Sess. L. 1965, Pt. I, p. 200; Aug. 13, 1966, No. 1805, § 13, Sess. L. 1966, p. 446; Sept. 1, 1966, No. 1815, § 13, Sess. L. 1966, p. 503; May 29, 1968, No. 2214, § 8, Sess. L. 1968, Pt. II, p. 21; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2967; New Hampshire law, N.H.R.S.A. 59:17; former Title 18 V.I.C. § 204.

Amendments-1968. Subsection (b): Act No. 2214 rephrased and substituted "with up to 20 sample ballots at least 15 days prior to the general election" for "with sample ballots at least 2 days before the election".

Act No. 2252 substituted "election district" for "legislative district".

-1966. Subsection (b): Act Aug. 13, 1966, substituted "with not more than 20 sample ballots at least 15 days prior to the general election" for "with sample ballots at least 2 days before the election". Act Sept. 1, 1966, reenacted the subsection to read as it had read prior to amendment by said Act Aug. 13, 1966.

-1965. Designated then existing section as subsection (a), and added subsection (b).

Effective date of amendments-1968. See note under section 41 of this title.

-1966. See note under section 301 of this title.

Subchapter IV. Electronic Voting Machines; Official Election Format

§ 501. Electronic voting machines; format

(a) All ballots shall be designed so that they are in plain clear type as the space will reasonably permit, capitalizing only the first letters and initials of each name. The names of parties or political bodies which contain more than twenty-two letters may, whenever limitations of space so require, be listed on the ballot in an abbreviated form. In listing the names of candidates whose full names contain more than twenty-two letters, only the surname must be listed in full. The Supervisor of Elections shall request each such candidate to indicate, in writing, the shortened form in which, subject to this restriction, his name shall be listed. If no such indication is received from such candidate within the time specified in the request, the Supervisor of Elections shall make the necessary determination. The titles of offices may be arranged horizontally, with the names of candidates for an office and the slot for write-in ballots for such office arranged next to

the title of the office. Each office shall occupy as many columns or rows on the machine as the number of candidates to be elected to that office. The names of all candidates nominated by any party or political body for an office shall always appear in the row or column containing generally the names of candidates nominated by such party or political body for other offices except as hereinafter provided.

(b) With respect to candidates for the offices of Governor and Lieutenant Governor of a party or political body, ballots shall be printed so that the names of such candidates for both offices shall appear in the same row or column, with the name of the candidate for Governor appearing first and the machine shall be so adjusted that both offices are voted for jointly and have but one designating letter or number.

(Added May 3, 1984, No. 4934, § 9(g), Sess. L. 1984, p. 122; amended Oct. 21, 1988, No. 5367, § 10, Sess. L. 1988, p. 254.)

HISTORY

Amendments-1988. Subsection (a): Substituted "twenty-two" for "fifteen" preceding "letters" in the second and third sentences.

Effect of other provisions on 1988 amendment. Pursuant to Act Oct. 21, 1988, No. 5367, § 10, Sess. L. 1988, p. 254, subsec. (a) of this section was amended notwithstanding section 6 of this title, which prohibits amendments to this title 6 months preceding the date of a general election, or any other provision of law.

§ 502. Form for referenda

Proposed referenda or other questions submitted shall appear on the electronic voting machine. The electronic voting machine shall contain buttons indicating "yes" or "no" and the questions shall be numbered consecutively on the face of the ballot.

(Added May 3, 1984, No. 4934, § 9(g), Sess. L. 1984, p. 122.)

§ 503. Facsimile and sample

The joint boards of elections shall provide facsimile and sample ballots which shall be arranged in the form of a diagram showing such part of the face of the electronic voting machine as shall be in use at that election. Such facsimile and sample ballots shall be either in full or reduced size and shall contain suitable illustrated directions for voting on the electronic voting machine. Such facsimile ballots shall be mounted and displayed for public inspection at each polling place during election day.

(Added May 3, 1984, No. 4934, § 9(g), Sess. L. 1984, p. 122.)

ANNOTATIONS

1. CONSTRUCTION.

Word "shall" in election statutes was not clear manifestation of legislative mandatory intent, such that violations of Virgin Islands election laws that Senator alleged warranted new election, since statutes did not go to election's merits, were intended merely to regulate election's conduct,

did not provide that failure to adhere rendered election void, and none of election's irregularities resulted from fraud. *Bryan v. Todman*, 28 V.I. 42 (Terr. Ct. St. C. 1992).

§ 504. Examination by voters and instruction in use of electronic voting machines

One or more electronic voting machines which shall contain the ballot labels, showing the party emblems and title of officers to be voted for, and which shall, so far as practicable, contain the names of the candidates to be voted for, shall be placed on public exhibition in a suitable place by the board of elections, in charge of competent instructors, for at least fifteen days during the thirty days preceding an election. No electronic voting machine which is to be assigned for use in an election shall be used for such purpose after having been prepared and sealed for the election. During such public exhibition, the counting mechanism of the machine shall be concealed from view and the doors may be temporarily opened only when authorized by the board or Supervisor of Elections. Any voter shall be allowed to examine such machine, and upon request shall be instructed in its use.

(Added May 3, 1984, No. 4934, § 9(g), Sess. L. 1984, p. 122.)

ANNOTATIONS

1. CONSTRUCTION.

Word "shall" in election statutes was not clear manifestation of legislative mandatory intent, such that violations of Virgin Islands election laws that Senator alleged warranted new election, since statutes did not go to election's merits, were intended merely to regulate election's conduct, did not provide that failure to adhere rendered election void, and none of election's irregularities resulted from fraud. *Bryan v. Todman*, 28 V.I. 42 (Terr. Ct. St. C. 1992).

§ 505. Repealed. Act June 13, 1994, No. 5991, § 8, Sess. L. 1994, p. 93.

HISTORY

Former § 505, derived from Act May 3, 1984, No. 4934, § 9(g), Sess. L. 1984, p. 122, was related to the instruction to electors on election day.

ANNOTATIONS UNDER FORMER § 505

1. CONSTRUCTION.

Word "shall" in election statutes was not clear manifestation of legislative mandatory intent, such that violations of Virgin Islands election laws that Senator alleged warranted new election, since statutes did not go to election's merits, were intended merely to regulate election's conduct, did not provide that failure to adhere rendered election void, and none of election's irregularities resulted from fraud. *Bryan v. Todman*, 28 V.I. 42 (Terr. Ct. St. C. 1992).

§ 506. Testing of tabulating equipment

(a) On any day not more than 10 days prior to the election day, the Supervisor of Elections shall have the electronic voting machines tested to ascertain that the equipment will correctly count the votes cast for all offices and on all measures. Public notice of the time and place of the test shall be given at least 48 hours prior thereto by publication or announcement once in all media services of general circulation in the Territory. The board of elections of each district shall convene, and each member of the board shall certify as to the accuracy of the test. For the test, the board of elections may designate one member to represent it. The test shall be open to representatives of the political parties, the press and the public.

(b) If any error is detected, the cause therefor shall be ascertained and corrected and an errorless count shall be made before the electronic voting machine is approved for use in the election. The equipment shall be tested with and without electricity.

(Added May 3, 1984, No. 4934, § 9(g), Sess. L. 1984, p. 122.)

ANNOTATIONS

1. CONSTRUCTION.

Word "shall" in election statutes was not clear manifestation of legislative mandatory intent, such that violations of Virgin Islands election laws that Senator alleged warranted new election, since statutes did not go to election's merits, were intended merely to regulate election's conduct, did not provide that failure to adhere rendered election void, and none of election's irregularities resulted from fraud. *Bryan v. Todman*, 28 V.I. 42 (Terr. Ct. St. C. 1992).

§ 507. Examination of equipment during voting

A member of the board of elections, or a designee of the board of elections, shall occasionally examine the face of the electronic voting machine and the ballot information to determine that the machine and the ballot information have not been tampered with or damaged.

(Added May 3, 1984, No. 4934, § 9(g), Sess. L. 1984, p. 122.)

ANNOTATIONS

Cited. Cited in *Bryan v. Todman*, 28 V.I. 42 (Terr. Ct. St. C. 1992).

§ 508. Election contests

Except as herein provided, certification and election contests shall be conducted as otherwise provided in chapter 23 of this title. Automatic tabulating equipment shall be tested prior to the recount of election contests, as provided in section 506 of this subchapter and then the official ballots or ballot cards shall be recertified on the equipment. Recertification of election contests may be accomplished by the utilization of any alternate systems contained in the electronic voting machine.

(Added May 3, 1984, No. 4934, § 9(g), Sess. L. 1984, p. 122.)

Subchapter V. Miscellaneous Provisions

HISTORY

Redesignation of subchapter. Act May 3, 1984, No. 4934, § 9(g), Sess. L. 1984, p. 122, redesignated this subchapter, which was originally enacted as subchapter IV consisting of sections 511-517, as present subchapter V.

§ 511. Candidates with similar surnames; printing occupation

If two or more candidates for the same office shall have the same or similar surnames, the Supervisor of Elections shall, upon the request of any such candidate filed in writing not later than five days after the last day for filing nomination petitions, certificates or papers, print, opposite his name on the ballot, the occupation or residence of any such candidate so filing a request.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2965.

§ 512. Names of substituted candidates to be printed

As soon as any substituted candidate shall have been duly nominated, at any time prior to the day on which the printing of ballots is started, his name shall be substituted in place of that of the candidate who has died or withdrawn.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2966.

§ 513. Responsibility for accurate printing and safekeeping

The Supervisor of Elections shall cause all the ballots to be used at a primary or election to be accurately printed in clear type, and he and the boards of elections, as the case may be, shall be responsible for the safekeeping of the ballots while in his or their possession or in the possession of his or their deputies, agents or subordinates.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2969.

§ 514. Instructions for voters

The Supervisor of Elections shall prepare full instructions for the guidance of voters at primaries and general elections, as to obtaining ballots, the manner of marking them, the method of gaining assistance, and as to obtaining new ballots in place of those that are found to be unserviceable or are accidentally spoiled; and shall cause such instructions to be printed in clear type, on separate cards, to be called cards of instruction; and he shall furnish to each board of elections a suitable number of such cards for each polling place in its district.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. New Hampshire law, N.H.R.S.A. 59:18; former Title 18 V.I.C. § 233.

§ 515. Delivery of ballots to boards

The Supervisor of Elections shall send in sealed packages for each polling district the ballots prepared by him to the several boards of elections so as to be received by them at least two days prior to the day of the primary or election. Each package shall be marked on the outside, clearly designating the election district and polling district for which the ballots are intended and the number of ballots of each kind enclosed. If there is more than one polling place for a polling district, there shall be sent a sealed package of ballots for each such polling place, and each such package shall also be marked with the designation of the polling place for which it is intended. The Supervisor of Elections shall keep a record of the time when, and the manner in which, the several packages were sent to the boards and a record of the number of ballots of each kind so forwarded.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(30); June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70.)

HISTORY

Source. New Hampshire law, N.H.R.S.A. 59:19.

Amendments-1968. Substituted "election" for "legislative" preceding "district" in the second sentence.

-1963. Added third sentence.

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 516. Receipts for ballots

Each board of elections shall, on delivery to it of the packages referred to in section 515 of this title, return a receipt therefor, signed by the chairman or vice-chairman of the board, to the Supervisor of Elections or his deputy.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. New Hampshire law, N.H.R.S.A. 59:20.

§ 517. Ballot boxes

The Supervisor of Elections shall furnish to each board of elections one ballot box for each polling place in its district, to contain the ballots voted. The ballot boxes shall be of sufficient size to contain all the votes and shall be so constructed that no ballots can be taken out of any box without the box being opened.
(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Former Title 18 V.I.C. § 215.

Chapter 20. Electronic Voting System

SECTION ANALYSIS

521. Adoption of system; procurement and commercial tabulations.

522. Examination and approval of equipment.

523. Requirements for approval of system.

524. Joint Boards of Elections to prescribe rules and regulations.

§ 521. Adoption of system; procurement and commercial tabulations

The Joint Boards of Elections shall, with the consultation and assistance of the Supervisor of Elections and the Commissioner of Property and Procurement, acquire by competitive bidding, as required by the procurement laws of the Virgin Islands, not less than one hundred ten (110) electronic voting machines and related equipment for the purpose of conducting all party primaries, general elections, and referenda, and for receiving, registering, and counting the votes thereof.

(Added May 3, 1984, No. 4934, § 11, Sess. L. 1984, p. 125; amended Sept. 28, 1987, No. 5281, § 2, Sess. L. 1987, p. 134.)

HISTORY

Amendments-1987. Amended section generally.

Establishment of specifications for and acquisition of electronic voting machine - Generally. Act Sept. 28, 1987, No. 5281, § 3(a), (b), Sess. L. 1987, p. 133; provided:

"(a) The Commissioner of Property and Procurement shall consult with the Joint Boards of Elections to establish specifications for the electronic voting machines and related equipment to be acquired by the Boards; provided, however, that 'electronic' systems and electronic mechanical scanners and card readers that employ paper ballots or 'punch cards' shall not qualify as electronic voting machines within the meaning of this act [which amended this section].

"(b) The Boards, with the assistance of the Commissioner, shall acquire the electronic voting machines and related equipment on a lease-purchase or installment payment basis which shall not extend for more than ten (10) years."

- **Implementation.** Act Sept. 28, 1987, No. 5281, § 3(c), Sess. L. 1987, p. 134, provided: "If the terms of this act [which amended this section] are not executed within thirty (30) days after it becomes law, the Commissioner shall implement its terms."

§ 522. Examination and approval of equipment

Any person or company interested in selling an electronic voting system may submit its proposal to the Government of the United States Virgin Islands, through the Joint Boards of Elections, the Supervisor of Elections and/or the Department of Property and

Procurement of the Government of the United States Virgin Islands, for examination. The vote counting segment shall be certified after a satisfactory evaluation testing has been performed according to electronic industry standards. The testing shall include, but not be limited to, the basic source program and its security; the ballot reader; the vote processor, especially in its logic and memory components; the digital printer; the fail-safe operations; the counting center environmental requirements; and the equipment reliability estimate. For the purpose of assisting in examining the system, the Joint Boards may employ not more than three individuals who are expert in one or more fields of data processing, mechanical engineering, and public administration and shall require from them a written report of their examination. No officer of the Government of the United States Virgin Islands, no member of the Legislature of the Virgin Islands, no member of the Board of Elections, the Supervisor of Elections, no employee of the Election System of the Virgin Islands, nor any examiner shall have any pecuniary interest in any voting equipment. The Joint Boards of Elections and the Supervisor of Elections shall approve or disapprove any voting system submitted to them within 20 days after the date of its initial submission.

(Added May 3, 1984, No. 4934, § 11, Sess. L. 1984, p. 125.)

HISTORY

Revision note. Inserted "United States" preceding "Virgin Islands" in two places in the first sentence and following "Government of the" in the fifth sentence.

§ 523. Requirements for approval of system

No electronic voting system shall be approved for use in the Virgin Islands unless it is so constructed that:

- (1) It permits and requires voting in secrecy;
- (2) It permits each elector to vote at any election for all persons and offices for whom and for which he is lawfully entitled to vote, and no others; to vote for as many persons for an office as he is entitled to vote for; and to vote for or against any question upon which he is entitled to vote;
- (3) The electronic voting system may be set to reject all votes for any office or measure when the number of votes therefor exceeds the number which the voter is entitled to cast or when the voter is not entitled to cast a vote for the office or measure;
- (4) It is capable of correctly counting votes;
- (5) When used in primary elections, the electronic voting equipment will count votes for the candidates of one part; reject all votes for an office when the number of votes therefor exceeds the number which the voter is entitled to cast; and reject all votes of a voter cast for candidates of more than one party;
- (6) It provides a method for write-in or paste-in voting;
- (7) It is capable of accumulating a count of the specific number of votes tallied for a polling place, accumulating total votes by candidate for each office, and accumulating total votes for and against each question and issue of the ballots tallied for a polling place;

(8) It is capable of tallying votes from ballots of different parties from the same polling place, in the case of a primary election;

(9) It is capable of automatically producing precinct totals in printed form; and

(10) It permits each elector, by one operation, to vote for all candidates running under a party symbol, should the elector so choose.

(Added May 3, 1984, No. 4934, § 11, Sess. L. 1984, p. 125.)

ANNOTATIONS

Cited. Cited in *Stapleton v. Board of Elections*, 821 F.2d 191 (C.A.3d 1987).

§ 524. Joint Boards of Elections to prescribe rules and regulations

The Joint Boards of Elections shall prescribe rules and regulations to achieve and maintain the maximum degree of correctness, impartiality and efficiency of the procedures of voting, counting, tabulating, and recording votes, by the electronic or voting systems and methods provided by law.

(Added May 3, 1984, No. 4934, § 11, Sess. L. 1984, p. 125.)

Chapter 21. Preparation for, and Conduct of, Primaries and Elections

Subchapter I. General Provisions.

- 551. Notices of primaries and general elections.
- 552. Watchers.
- 553. Delivery of supplies, certificates, district registers, ballots, and ballot boxes to judges of election.
- 554. Unofficial ballots.
- 555. Hours polls open; persons inside at time of closing.
- 556. Electioneering prohibited.
- 557. Assistance of police.
- 558. Meeting of election officers on day of election.
- 559. Duties of election officers.
- 560. Opening of polls; posting of instructions and sample ballots.

Subchapter II. Voting.

- 581. Personal voting required; persons permitted to vote; change of residence within district.
- 582. Manner of applying to vote; identification; voters' certificates; entries; voting list.
- 583. Repealed. Act May 3, 1984, No. 4934, § 12(f), Sess. L. 1984, p. 127, 128.
- 584. Voting; presence of other persons prohibited; time for voting.
- 585. Assistance in voting.
- 586. Challenging voters; oath.
- 587. Duty of election officers to challenge voters.
- 588. Issuance of ballots by election officers only; ballots not to be removed; official ballots only to be deposited and counted; exception.
- 589. Preventing congestion at polls.

Subchapter I. General Provisions

HISTORY

Reapportionment of Legislature; provisional repeal of certain laws. Establishment of Commission on Reapportionment of the Legislature for purpose of preparing and submitting to Legislature, by January 9, 1968, a recommended plan for reapportionment of the Legislature, and provisional repeal of all provisions of this title which refer to legislative districts of St. Thomas, St.

Croix, and St. John, see Acts Feb. 15, 1967, No. 1850; Sept. 18, 1967, No. 2054, set out in note preceding chapter 1 of this title.

§ 551. Notices of primaries and general elections

(a) Not less than three weeks before each primary and each general election, the board of elections for each election district shall post a notice in three public places in its district, which notice shall specify the time of the primary or election, the location of the polling places for the respective polling districts, and the hours during which the polls will be kept open. The notice shall also contain the names of the candidates to be voted for in that district.

(b) At least once a week for three successive weeks preceding each primary or general election, the board of elections for each election district shall cause to be published in the newspapers circulating in the district a general notice of the primary or election in the form prescribed by subsection (a) of this section.

(c) In the case of a polling district for which the board of elections has fixed two or more polling places, the notices prescribed by subsections (a) and (b) of this section shall contain sufficient directions to inform each voter of each such district of the polling place at which he is required to vote.

(Added Feb. 20, 1963, No. 936, § 1; amended April 2, 1964, No. 1163, § 21, Sess. L. 1964, p. 169; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70.)

HISTORY

Source. Former Title 18 V.I.C. §§ 151, 152.

Amendments-1968. Substituted "election district" for "legislative district".

-1964. Subsection (c): Added.

Effective date of amendments-1968. See note under section 41 of this title.

§ 552. Watchers

(a) Each candidate for nomination or election at a primary may appoint two watchers in each polling place in which such candidate is to be voted for.

(b) Each political party or political body which has nominated candidates in accordance with this title, and each nominated independent candidate, may appoint three watchers at any general election for each polling place in which the candidates of such party or body, or such independent candidate, are to be voted for. Such watchers shall serve without expense to the territory.

(c) All watchers appointed under this section shall be qualified registered voters of the legislative district in which they are authorized to act. Only one watcher for each candidate at primaries, or for each political party or body or independent candidate at general elections, shall be allowed to remain in the polling place at any one time prior to the close of the polls, and all watchers in the room shall remain outside the enclosed space. After the close of the polls and while the ballots are being counted, all the watchers shall be permitted to be in the polling place outside the enclosed space. Each watcher shall be provided with a certificate from the district board of elections, stating his

name and the name of the candidate, political party or body or independent nominee he represents. Watchers shall be required to show their certificates when requested to do so.

(d) Watchers allowed in the polling place under this section may keep a list of voters for use only in connection with the challenging of any person making application to vote. A watcher may be permanently ejected from the polling place or the polling grounds upon the determination by the judge of elections or, in his absence, by both of the election inspectors, that such watchers have violated any proscription under this title or is otherwise disrupting the election procedures.

(Added Feb. 20, 1963, No. 936, § 1; amended May 29, 1968, No. 2214, § 9, Sess. L. 1968, Pt. II, p. 21; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; Oct. 4, 1968, No. 2342, § 4, Sess. L. 1968, Pt. II, p. 336.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 2687; former Title 18 V.I.C. § 288.

Amendments-1968. Subsection (d): Act No. 2214 amended subsection generally. Act No. 2342 amended first sentence to provide for keeping of list of voters for use only in connection with challenges.

Act No. 2252 substituted "election district" for "legislative district".

Effective date of amendments-1968. See note under section 41 of this title.

ANNOTATIONS

1. NUMBER OF WATCHERS.

If the board of elections uses several teams to count ballots for election to the board of elections and the board of education, the political parties and the candidates, who are entitled to three watchers for each polling place, are entitled to three watchers for each team, as each team is the equivalent of a polling place., 8 V.I.Op.A.G. 25.

§ 553. Delivery of supplies, certificates, district registers, ballots, and ballot boxes to judges of election

(a) The cards of instructions referred to in section 514 of this title, return sheets, tally papers, statements, oaths of election officers, affidavits, voters' certificates, sample ballots, and other forms and supplies required for use in each polling district, and in each polling place, if there is more than one polling place for a polling district, and also the district register, or the subdivisions thereof, if the district register has been subdivided as provided by subsection (b) of section 105 of this title, shall be packed by the board of elections in separate sealed packages for each polling district, or for each polling place for a polling district, as the case may be, marked on the outside so as clearly to designate the polling districts, as well as the polling places, if there is more than one polling place for a polling district, for which they are intended. They shall then be delivered by the board, along with the ballot boxes, to the judges of election in the several polling districts, not

later than the day prior to the day of the primary or election. Each ballot box shall bear the name of the polling district and, if there is more than one polling place for a polling district, the designation of the polling place, for which it is intended.

(b) If, for any reason, it is impossible to deliver the package referred to in subsection (a) of this section to the judge of election in any polling district or polling place, it may be delivered to one of the inspectors of election therein. The respective judges of election or inspectors shall, on delivery to them of the package, return receipts therefor to the board, and the board shall keep a record of the time when, and the manner in which, the several packages are delivered.

(c) The board may, in its discretion, require the respective judges of election to call at its office to obtain the packages.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(31).)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 3044.

Amendments-1963. Subsection (a): Inserted provisions relating to cases of more than one polling place in a district and provision relating to the subdivision of the district register; and added third sentence.

Subsection (b): Inserted reference to polling place.

§ 554. Unofficial ballots

If from any cause the official ballots have not been received at a polling place on the morning of a primary or election and before the opening of the polls, or if the supply of ballots shall become exhausted during the process of balloting and before the polls are closed, the board of elections concerned shall cause unofficial ballots to be prepared, substantially, as far as may be, in form of the official ballots, and upon receipt of such unofficial ballots from the board, accompanied by a statement of its chairman or vice-chairman under oath that the unofficial ballots have been so prepared and that the official ballots have not been received, or that the supply has been exhausted, the election officers at such polling place shall cause the unofficial ballots so substituted to be used in lieu of the official ballots, in order that no elector shall be deprived of the right to vote for the lack of a ballot.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. New Hampshire law, N.H.R.S.A. 59:21.

§ 555. Hours polls open; persons inside at time of closing

At all primaries and elections, the polls shall be open from 7:00 a.m., until 7:00 p.m. All persons entitled to vote who are present at the place where the primary or election is being held at or before the time of closing the polls shall be allowed to vote.

(Added Feb. 20, 1963, No. 936, § 1; amended Oct. 21, 1988, No. 5367, § 5, Sess. L. 1988, p. 254.)

HISTORY

Source. Former Title 18 V.I.C. §§ 213, 214.

Amendments-1988. Substituted "7:00 a.m., until 7:00 p.m." for "8:00 o'clock a.m., until 6:00 o'clock p.m." in the first sentence.

Effective date of amendments-1988. Act Oct. 21, 1988, No. 5367, § 8(a), Sess. L. 1988, p. 254, provided that notwithstanding section 6 of this title, prohibiting amendments to this title 6 months preceding the date of a general election, section 5 of the act, which amended this section, was to take effect upon enactment, Oct. 21, 1988.

ANNOTATIONS

Cited. Cited in *Bryan v. Todman*, 28 V.I. 42 (Terr. Ct. St. C. 1992).

§ 556. Electioneering prohibited

There may be no electioneering within an area outside the polling place designated by the chairman of the board of elections in the election district, prior to the date of a primary or general election, as the polling grounds incidental to the polling place. For the purposes of this section, "electioneering" shall include the checking of lists or writing of names by any person. A person may be ejected from the polling grounds upon the determination by the judge of election or, in his absence, by both of the election inspectors, that such person is electioneering within such polling grounds or is otherwise disrupting the election procedure.

(Added Feb. 20, 1963, No. 936, § 1; amended May 29, 1968, No. 2214, § 10, Sess. L. 1968, Pt. II, p. 21; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70.)

HISTORY

Source. Former Title 18 V.I.C. § 212.

Amendments-1968. Act No. 2214 amended section generally.

Act No. 2252 substituted "election district" for "legislative district".

Effective date of amendments-1968. Effective date of amendment of this section by Act June 26, 1968, No. 2252, see note under section 41 of this title.

§ 557. Assistance of police

The Police Commissioner shall provide police protection at each polling place for the duration of the primary and election. The election officers, or any three qualified electors of a polling district, may call upon any police officer present to clear an avenue to the door of the polling place in such district which is obstructed in a way as to prevent electors from approaching, or to maintain order and quell any disturbance, if such arises.

(Added Feb. 20, 1963, No. 936, § 1; amended May 3, 1984, No. 4934, § 12(a), Sess. L. 1984, p. 127; June 15, 1984, No. 4964, § 1(b), Sess. L. 1984, p. 177.)

HISTORY

Source. Former Title 18 V.I.C. § 243; Purdon's Penn. Statutes, Title 25, § 3047.

Amendments-1984. Act No. 4934 rewrote the first sentence, inserted "present" following "police officer" and deleted "such" preceding "a way" in the second sentence.

Act No. 4964 substituted "Police Commissioner" for "Commissioner of Public Safety" at the beginning of the first sentence.

Effective date of amendments-1984, Act No. 4964, amendment. Act June 15, 1984, No. 4964, § 1(c), Sess. L. 1984, p. 177, provided that the change of name of the Commissioner of Public Safety shall take effect Jan. 1, 1985.

§ 558. Meeting of election officers on day of election

The election officers shall meet at the polling place to which they were assigned at least 30 minutes before the hour for opening the polls on the day of each primary or election. Any person who is selected to fill a vacancy or a temporary vacancy after the time for swearing in as prescribed in chapter 7 of this title shall take and subscribe to, in duplicate, the oath required by this title.

(Added Feb. 20, 1963, No. 936, § 1; amended May 3, 1984, No. 4934, § 12(b), Sess. L. 1984, p. 127; Oct. 21, 1988, No. 5367, § 6, Sess. L. 1988, p. 254.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25 § 3048(a), (b).

Revision note. Substituted "chapter 7 of this title" for "chapter 7" following "prescribed in" in the second sentence for purposes of conformity with V.I.C. style pursuant to section 14 of Title 1.

Amendments-1988. Substituted "30" for "60" preceding "minutes" in the first sentence and substituted "any person who is selected to fill a vacancy or a temporary vacancy after the time for swearing in as prescribed in chapter 7 shall" for "they shall thereupon, in the presence of each other" preceding "take and subscribe" in the second sentence.

-1984. Substituted "election officers" for "judges, inspectors, and clerks of election" preceding "shall meet" and "at the polling places to which they were assigned" for "in the respective polling places in each polling district" thereafter and "60 minutes" for "30 minutes" in the first sentence, and "oath" for "oaths" preceding "required" and made other minor stylistic changes in the second sentence.

Effective date of amendments-1988. Act Oct. 21, 1988, No. 5367, § 8(a), Sess. L. 1988, p. 254, provided that notwithstanding section 6 of this title, prohibiting amendments to this title 6 months preceding the date of a general election, section 6 of the act, which amended this section, was to take effect upon enactment, Oct. 21, 1988.

§ 559. Duties of election officers

(a) After the election officers and clerks have subscribed their oaths required by section 558 of this title, the judge of election shall designate one of the inspectors of election to have custody of the district register and to make the entries therein required by section 582 of this title. The other inspector shall have charge of the deposit of ballots in the ballot box. The judge or one of the clerks shall issue the ballots to electors after they are found entitled to vote, and the other clerk shall have custody of, and make the entries on, the list of voters required by section 582 of this title to be kept.

(b) The judge of election may assign any inspector or clerk of election to assist another election officer in the performance of his duties, or to perform them during his temporary absence or disability.

(Added Feb. 20, 1963, No. 936, § 1; amended April 2, 1964, No. 1163, § 22, Sess. L. 1964, p. 169.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 3048.

Amendments-1964. Subsection (a): Deleted, from second sentence, requirement that other inspector have charge of the "receipt" of ballots.

§ 560. Opening of polls; posting of instructions and sample ballots

The election officers shall, after taking the oath, open the ballot boxes which have been furnished to them, before opening of the polls. Not earlier than one hour prior to the opening of the polls, but subsequent to compliance with section 153 of this title, the seals of the packages furnished or forwarded by the Board of Elections shall be opened by the judge of election. When the polling place is opened, the ballot boxes shall be securely locked, and shall not be opened until the close of the polls as provided in this title. The cards of instructions provided under section 514 of this title shall be immediately posted in each voting compartment and not less than three of such cards shall immediately be posted in or about the voting room outside the enclosed space. In addition, not less than five sample ballots of each political party, if a primary is being held, and not less than five sample ballots, if a general election is being held, shall be posted in and about the polling place outside the enclosed space. Also, such cards of instructions and sample ballots shall be given to any elector at his or her request, as long as there are any on hand. (Added Feb. 20, 1963, No. 936, § 1; amended Aug. 11, 1972, No. 3291, § 3, Sess. L. 1972, p. 428.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 3049(a); former Title 18 V.I.C. § 215.

Amendments-1972. Added a new second sentence relating to opening seal of packages not earlier than one hour prior to opening of polls and repealed third sentence beginning with "at the opening . . .".

Subchapter II. Voting

§ 581. Personal voting required; persons permitted to vote; change of residence within district

(a) Except as provided by chapter 25 of this title, the right of voting may only be exercised by personal attendance, and no unregistered voter shall be allowed to vote at any primary or election, except by order of the district court. All persons whose names appear on the district register of electors of the polling district shall be permitted to vote, unless it is shown to the satisfaction of the election officers that he no longer resides in the election district; but at a primary a person shall be permitted to vote only on the ballot of the political party in which he is enrolled in the district register.

(b) If a voter has moved his residence from one polling district to another in the same legislative district within 30 days immediately preceding a primary or election, and for any reason his registration has not been transferred to the polling district of his new residence, he shall be permitted to vote only in the polling district in which he is registered and formerly resided. However, at the next election he shall be required to vote at the polling district where he resides.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70; July 12, 1978, No. 4156, § 9, Sess. L. 1978, p. 152; May 3, 1984, No. 4934, § 12(c), Sess. L. 1984, p. 127.)

HISTORY

Source. Former Title 18 V.I.C. § 231.

Amendments-1984. Substituted "moved" for "removed" following "voter has" and "legislative" for "election" following "same" in the first sentence and added the second sentence.

-1978. Subsection (b): Substituted "30" for "60" preceding "days".

-1968. Subsection (a): Substituted "election" for "legislative" following "resides in the" in the second sentence.

Subsection (b): Substituted "election" for "legislative" following "in the same".

Effective date of amendments-1978. Act No. 4156 effective as of July 12, 1978, see note set out under section 91 of this title.

-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 582. Manner of applying to vote; identification; voters' certificates; entries; voting list

(a) Each elector desiring to vote shall, when he enters the place where the primary or general election is being held, state his name and present the Certificate of Registration, issued him in accordance with subsection (e) of section 100 of this title, to the election officers, if he is in possession of the same. If his registration card appears in the district register and, in the case of a primary, his party enrollment appears thereon, and the election officers are satisfied as to his identity and continued residence in the district, he shall be admitted to vote.

(b) Election officers shall require the elector to sign or make his or her mark on a voter's certificate for the purpose of comparing his signature thereon with

his signature or mark appearing on the district register and on the elector's Certificate of Registration, if he is in possession of the same. Such voter's certificate shall be supplied by the Supervisor of Elections in such quantities as he deems necessary, and shall be in the following form:

VOTER'S CERTIFICATE

(Primary) (Election _____, 19____)
I hereby certify that I am qualified to vote at this (primary) (election)
Signature _____
Address _____, Virgin Islands
Approved _____
Party (if at primary) _____

(c) When an elector has been found qualified and admitted to vote, the election officer in charge of the district register shall write or stamp the date of the election or primary and the elector's number in order of admission to vote, and shall sign his name or initials, in the proper space on the registration card of such voter contained in the district register. The elector's name shall also be entered, with his running number, on the list of voters voting at that primary or election, to be kept by a clerk of election as provided by section 559 of this title, and to be known as the voting list. At primaries, after each name on the voting list a note of the voter's party enrollment shall be added. Such party designations may be abbreviated in the manner prescribed by the board of elections prior to the opening of the polls.

(Added Feb. 20, 1963, No. 936, § 1; amended May 3, 1984, No. 4934, § 12(d), (e), Sess. L. 1984, p. 127, 128.)

HISTORY

Source. Former Title 18 V.I.C. § 232.

Amendments-1984. Subsection (a): Inserted "and present the Certificate of Registration, issued him in accordance with subsection (e) of section 100 of this title" preceding "to the election officers" in the first sentence and "if he is in possession of same" thereafter.

Subsection (b): Rewrote the first sentence.

§ 583. Repealed. Act May 3, 1984, No. 4934, § 12(f), Sess. L. 1984, p. 127, 128.

HISTORY

Source. Former Title 18 V.I.C. § 233.

§ 584. Voting; presence of other persons prohibited; time for voting

(a) The elector, after having been certified to vote and after having received upon his request verbal instructions as to the manner of voting from an election official, shall retire

to a voting booth and vote the ballot on the electronic voting machine by depressing the button or buttons opposite the party emblem or candidate of the elector's choice.

(b) At primary elections, the elector shall prepare his ballot in the following manner:

(1) He shall vote for the candidates of his choice for nomination or election, according to the number of persons to be voted for by him, for each office, by depressing the button(s) opposite the name of the candidate, or he may insert, by pasting, in the blank space provided therefor, any name not already printed on the ballot, and such insertion shall count as a vote without the making of a crossmark (X).

(2) -(4) [Repealed.]

(c) At the general elections, an elector shall prepare his ballot in the following manner:

(1) He may vote for the candidates of his choice for each office to be filled according to the number of persons to be voted for by him for each office, by depressing the button(s) opposite the name of the candidate, or he may insert by pasting, in the blank space provided therefor, any name not already printed on the ballot, and such insertion shall count as a vote without the making of a crossmark (X).

(2) If he desires to vote for every candidate of a political party, he may depress the button(s) opposite the name of the political party of his choice in the Party Column on the ballot, and every such depression(s) shall be equivalent to and counted as a vote for every candidate of the party so marked whose name appears on the ballot.

(3) If the voter depresses the button opposite the name of a candidate of a party and also depresses the button opposite the same party in the Party Column on the ballot of the electronic voting machine, then the depression in the Party Column shall be the equivalent to and shall be counted as a vote for every candidate of the party so marked with the mechanical device.

(4) If an elector wishes to vote a split ticket, that is, to vote for any combination of candidates from different political parties or political bodies or independent candidates, he shall make a depression opposite the names of the candidates for whom he wishes to vote.

(5) If a political party does not have a complete slate of candidates for a particular office, the elector may vote for every candidate of a political party by depressing the button opposite the name of the political party and by also voting for a certain number of additional candidates, so that the total number of candidates voted for by voting for the party slate plus the additional candidates does not exceed the number of candidates for which the elector is entitled to vote.

(6) [Repealed.]

(d) In any case of doubt or conflict, the marking of the ballot shall be deemed to be valid in such a way that wherever the intention of the voter appears, although the marking may be defective, the ballot shall be deemed to be valid and such intention shall be given effect.

(e) He shall then leave the voting booth and immediately give his name to the election officers, who shall enter his name on a list of voters who have voted.

(f) Except as provided by section 585 of this title, no other person shall be present with the voter while the latter is in the voting booth.

(g) No elector shall remain in the voting booth for more than five minutes. If the elector requests a longer period of time, an election officer shall grant him a longer period

of time, at his discretion, not to exceed five minutes. If the elector refuses to leave the voting booth after such additional time has been granted, the election official shall summon a police officer who shall remove the elector.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(32); April 2, 1964, No. 1163, § 23, Sess. L. 1964, p. 169; Aug. 13, 1966, No. 1805, § 15, Sess. L. 1966, p. 447; Sept. 1, 1966, No. 1815, § 8, Sess. L. 1966, p. 496; June 26, 1968, No. 2252, § 9, Sess. L. 1968, Pt. II, p. 71; Feb. 12, 1969, No. 2419, § 16, Sess. L. 1969, p. 74; Nov. 15, 1971, No. 3127, §§ 7, 8, 14, Sess. L. 1971, p. 364, 365; amended May 3, 1984, No. 4934, § 12(g)-(p), Sess. L. 1984, p. 128, 129.)

HISTORY

Source. Former Title 18 V.I.C. §§ 233 (part), 235(a), 236; Purdon's Penn. Statutes, Title 25, §§ 3055, 3057; New Hampshire law, N.H.R.S.A. 59:61.

Amendments-1984. Amended section generally.

-1971. Subsection (b): Act No. 3127 repealed subdivisions (2)-(4).

Subsection (d): Subdivision (c)(5) redesignated as subsection (d) by Act No. 3127, § 7.

Subsections (d)-(f): Act No. 3127, § 14 added these new subsections which were redesignated as subsections (e)-(g) to avoid conflict with subsection (d) as designated by Act No. 3127, § 7.

-1969. Subsection (b): Repealed (b)(3) and redesignated (b)(4) as (b)(3).

Subsection (c): Repealed (c)(4), (6) and redesignated (c)(5) and (7) as (c)(4) and (5).

-1968. Subsection (c): Subdivision "(6)" renumbered "(7)" and a new "(6)" added.

-1966. Subsections (b) and (c): Both subsections amended generally, first by Act Aug. 13, 1966, then by Act Sept. 1, 1966.

-1964. Subdivision (c)(2): Added second exception.

-1963. Subsection (c): Amended subdivisions (1), (2) and (3) generally and added subdivisions (4), (5) and (6).

Effective date of amendments-1968. See note under section 41 of this title.

-1966. See note under section 301 of this title.

ANNOTATIONS

1. COUNTING OF IMPROPERLY MARKED BALLOT.

District court correctly determined that mismarked ballots should be counted as votes for those offices for which the voter's intent was clear. *Stapleton v. Board of Elections*, 821 F.2d 191 (C.A.3d 1987).

Neither a regulation of the board of elections, nor a decision of the supervisor of elections, can supersede the requirement of subsection (d) of this section that where the elector's intent can be divined, it should be given effect. *Democratic Party v. Board of Elections*, 22 V.I. 465, 649 F. Supp. 1549 (D.C.V.I. 1986).

A ballot improperly marked as to one office is not void as a whole, but only to the office for which the mistake was made. *Democratic Party v. Board of Elections*, 22 V.I. 465, 649 F. Supp. 1549 (D.C.V.I. 1986).

A ballot should only be voided if it is impossible to determine a voter's intention. *Democratic Party v. Board of Elections*, 22 V.I. 465, 649 F. Supp. 1549 (D.C.V.I. 1986).

Where boards of election erred as a matter of law in refusing to count spoiled ballots for those parts of the ballot where the elector's intent was clear, writ of mandamus would issue directing the boards to recanvass the ballots cast and count ballots previously deemed spoiled according to the principle that a ballot improperly marked as to one office was not void as a whole but only to the office for which the mistake was made. *Democratic Party v. Board of Elections*, 22 V.I. 465, 649 F. Supp. 1549 (D.C.V.I. 1986).

A ballot improperly marked as to one office is not void as a whole, but only as to the office for which the mistake was made; only where it is impossible to determine a voter's intention should an entire ballot be voided. *Melchior v. Todman*, 7 V.I. 583, 296 F. Supp. 900 (D.C.V.I. 1968).

§ 585. Assistance in voting

If a voter is unable by reason of physical disability or inability to read the English or Spanish language to mark his ballot or to mark same in an informed manner he may, if he declares to the judge of the election, under oath, that he is so disabled or unable to read, and the judge of the election is satisfied, from the contents of the voter's registration card or other convincing proof, as to the truth of such declaration, have the assistance of a person of his own selection to mark his ballot or to read the ballot for him. Such person so selected shall be sworn, may accompany the voter into the voting booth, and shall either mark the ballot as directed by the voter in the case of physical disability or read the ballot to the voter in the case of inability of the voter to read, and shall thereafter give no information regarding the same. Such person so selected may assist only one voter in any primary or general election.

(Added Feb. 20, 1963, No. 936, § 1; amended July 14, 1972, No. 3250, § 2, Sess. L. 1972, p. 180.)

HISTORY

Source. Former Title 18 V.I.C. § 235(b); New Hampshire law, N.H.R.S.A. 59:65.

Amendments-1972. Inserted provision pertaining to persons who cannot read the English or Spanish language to obtain assistance in voting.

ANNOTATIONS

1. GENERALLY.

Persons having a physical disability preventing them from reading or from writing, or both, who are citizens in good standing, and who could read and write prior to their disability, should be permitted to register and vote., 3 V.I.Op.A.G. 289.

§ 586. Challenging voters; oath

Any voter may be challenged by any qualified elector of the district, and any watcher authorized by section 552 of this title to be present, and the election officers shall thereupon read to and afterward administer to the person challenged an oath in substance as follows:

"I do swear (or affirm) that I am a citizen of the United States, that I am at least 18 years of age, that I have resided for a period of 90 days next preceding this election in the Virgin Islands and in this election district 30 days next preceding this election, and that I am a qualified elector registered under this name and that I have not voted before on this day."

If he takes the oath prescribed herein his vote shall be received, otherwise his vote shall be rejected.

(Added Feb. 20, 1963, No. 936, § 1; amended July 12, 1978, No. 4156, § 10, Sess. L. 1978, p. 152; July 15, 1988, No. 5352, § 4, Sess. L. 1988, p. 183.)

HISTORY

Source. Former Title 18 V.I.C. § 237.

Amendments-1988. Subsection (a): Inserted "for a period of 90 days next preceding this election" following "resided" in the oath.

-1978. Amended oath to reflect legal age and thirty day residency requirements.

Effective date of amendments-1988. Act July 15, 1988, No. 5352, § 5, Sess. L. 1988, p. 184, provided that section 4 of the act, which amended this section, shall become effective for the general election of November, 1990.

-1978. Act No. 4156 effective as of July 12, 1978, see note set out under section 91 of this title.

§ 587. Duty of election officers to challenge voters

The election officers shall challenge every person applying for a ballot when it shall be known or suspected that such person is not a qualified elector in the election district.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70.)

HISTORY

Source. Former Title 18 V.I.C. § 238.

Amendments-1968. Substituted "election" for "legislative" preceding "district".

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 588. Issuance of ballots by election officers only; ballots not to be removed; official ballots only to be deposited and counted; exception

Only election officers or clerks may take and give ballots to electors; and not more than one ballot shall be given to an elector desiring, and found qualified, to vote, except in the case of an unserviceable or spoiled ballot as provided in this chapter. No person other than the election officers shall take or remove any ballot from the polling place. No ballot without the official endorsement shall, except as provided in section 554 of this title, be deposited in the ballot box, and no other ballots shall be counted. If any ballot appears to have been obtained otherwise than from the Supervisor of Elections, through the board of elections, as provided in this title, or from the board of elections as provided in section 554 of this title, it shall not be counted, and the judge of election shall transmit such ballot to the United States attorney without delay, together with whatever information he may have regarding it.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 3059.

§ 589. Preventing congestion at polls

The election officers, to prevent congestion, may specify the number of voters to be allowed in the polling place at any given time, provided that no qualified elector be denied his right of voting.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Former Title 18 V.I.C. § 241.

Chapter 23. Canvassing of Ballots; New Elections; Recounts

HISTORY

Reapportionment of Legislature; provisional repeal of certain laws. Establishment of Commission on Reapportionment of the Legislature for purpose of preparing and submitting to Legislature, by January 9, 1968, a recommended plan for reapportionment of the Legislature, and provisional repeal of all provisions of this title which refer to legislative districts of St. Thomas, St. Croix, and St. John, see Acts Feb. 15, 1967, No. 1850; Sept. 18, 1967, No. 2054, set out in note preceding chapter 1 of this title.

SECTION ANALYSIS

- 621. Duties of election officers after close of polls.
- 622. Counting votes; periodic announcements.
- 622a. [Repealed.]
- 623. [Repealed.]
- 624. Ballot decisions to be made by inspectors; duty of judge.
- 625. Statement of votes cast.
- 626. Sealing and delivery of ballots and records; retention.
- 627. General rule for determining result; notification of candidates.
- 628. Tied results; new election.
- 629. Recounts; procedure; new election; appeal.
- 630. Watchers at canvasses.

§ 621. Duties of election officers after close of polls

After the polls are closed and the last elector has voted, the election officers and clerks who have been present throughout the election day may be replaced by another set of election officers, designated by the Board of Elections, which election officers shall have the same qualifications and take the same oath as prescribed in chapter 7 of this title. Before the electronic voting machine is opened, the election officers shall count the number of electors admitted to vote as shown by the district register and check such number against the number of electors admitted to vote as shown by the voting list, and against the number of electors voting as shown on the list of voters who have voted, shall announce the results, and include the result in the statement required by section 625 of this title.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(33); June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70; Aug. 11, 1972, No. 3291, § 4, Sess. L. 1972, p. 428; May 3, 1984, No. 4934, § 13(a), Sess. L. 1984, p. 130.)

HISTORY

Source. Purdon's Penn. Statutes, Title 25, § 3061; former Title 18 V.I.C. § 282.

Amendments-1984. Substituted "electronic voting machine" for "ballot box" preceding "is opened" and "who have voted" for "voted" following "voters" and deleted "shall" preceding "check" and preceding "include" in the second sentence and deleted the third through fifth sentences.

-1972. First sentence amended by providing for replacement of election officers and clerks after the polls are closed.

-1968. Substituted "election" for "legislative" following "as to contents" in the fifth sentence.

-1963. Added reference in final sentence to polling place in case there is more than one polling place in a district.

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

ANNOTATIONS

Cited. Cited in *Democratic Party v. Board of Elections*, 22 V.I. 465, 649 F. Supp. 1549 (D.C.V.I. 1986).

§ 622. Counting votes; periodic announcements

As soon as the procedures prescribed by section 621 of this title have been complied with, the election officers and clerks who have been present throughout the election may be replaced by another set of election officers, who shall have the same qualifications, receive the same compensation and take the same oath as prescribed in chapter 7 of this title. The election officers shall open the electronic voting machine and obtain the tabulations separately cast for election to the boards of education and elections from all other tabulations of ballots cast in the election; provided, that at primaries, the ballots shall be separated according to the political party to which they belong. The number of persons voting at a primary shall equal the total number of persons who signed the register at the polling stations.

(Added Feb. 20, 1963, No. 936, § 1; amended Oct. 4, 1968, No. 2342, § 7, Sess. L. 1968, Pt. II, p. 336; Aug. 28, 1972, No. 3296, § 3, Sess. L. 1972, p. 433; May 3, 1984, No. 4934, § 13(b), Sess. L. 1984, p. 130.)

HISTORY

Source. Former Title 18 V.I.C. § 282 (part).

Amendments-1984. Amended section generally.

-1972. First sentence amended generally and provision inserted for separation of ballots cast for election to the boards of education and elections from all other ballots cast in the election.

-1968. Added provisions relating to boards of education and elections in first two sentences.

§ 622a. Repealed. Act May 3, 1984, No. 4934, § 13(c), Sess. L. 1984, p. 130.

HISTORY

Former section 622a, which was derived from Act Oct. 4, 1968, No. 2342, § 8, Sess. L. 1968, Pt. II, p. 337, related to the procedure for counting ballots.

§ 623. Repealed. Act May 3, 1984, No. 4934, § 13(d), Sess. L. 1984, p. 130.

HISTORY

Former section 623, which was derived from Act Feb. 20, 1963, No. 936, § 1; and amended by Acts March 26, 1963, No. 994, § 1(34); April 2, 1964, No. 1163, § 24, Sess. L. 1964, p. 170; and Sept. 1, 1966, No. 1815, §§ 9, 10, Sess. L. 1966, p. 498, related to the marking of ballots and the invalidity thereof.

§ 624. Ballot decisions to be made by inspectors; duty of judge

Decisions concerning the validity of any ballots, and the count to be recorded thereon, shall be made by the inspectors of election. If the inspectors disagree in any such matter, the judge of election shall decide the question.

(Added Feb. 20, 1963, No. 936, § 1; amended May 3, 1984, No. 4934, § 13(e), Sess. L. 1984, p. 130.)

HISTORY

Amendments-1984. Substituted "the validity of any" for "questionable marks on ballots or defacing or mutilation of" preceding "ballots" in the first sentence.

§ 625. Statement of votes cast

After the votes for each candidate have been tallied and counted by the election officers as provided in this chapter, such officers shall prepare a statement showing the number of votes cast for each person (upon the respective party tickets at primaries), the total number of ballots received from the board of elections (the number of each party at primaries), the number of ballots cast (the number of each party at primaries), the number of ballots (of each party at primaries) declared void, and any blank ballots cast for each candidate. At elections, the number of votes cast for each candidate by each political party or body by which he has been nominated, and for each independent candidate, shall be separately stated. In specifying any votes cast for persons whose names are not on the ballot, the election officers shall record any such names exactly as they were written or pasted to the ballot. The statement shall be signed by the election officers and clerks, and, after its delivery to the board of elections as provided in this chapter, shall be kept in the records of the board. If any election officer or clerk refuses to sign the statement, he shall append and sign a statement giving his reasons for such refusal.

(Added Feb. 20, 1963, No. 936, § 1; amended May 3, 1984, § 13(f), (g), Sess. L. 1984, p. 131.)

HISTORY

Source. Former Title 18 V.I.C. § 281.

Amendments-1984. Deleted "and the number of unserviceable and spoiled and cancelled ballots" following "void" in the first sentence and "printed" following "are not" in the third sentence and substituted "pasted to the ballot" for "or applied to the ballot by sticker" following "written" in the third sentence.

§ 626. Sealing and delivery of ballots and records; retention

After the votes cast at the respective polling places for each of the candidates have been counted and the statement has been made as required by sections 621 and 625 of this title, the results shall be announced to the persons present, and the tally papers, shall be securely sealed in a package, upon the outside of which shall be endorsed: "Enclosed are the tally papers of the ballots cast at the election [or primary] held at the _____ polling district, Election District of _____, on the _____ day of _____, 19____". If there is more than one polling place for a polling district, the endorsement shall also specify the polling place. The judge of election and inspector of opposite political affiliation shall forthwith deliver such package, along with the statement required by sections 621 and 625 of this title, the sealed packages, containers or envelopes referred to in section 621 of this title, and the electronic voting machines, and the district register, to the board of elections. All books, lists, papers and other vouchers in connection with a primary or election, other than the district register, shall be signed by the election officers and delivered by the boards of elections, after the determination of the result, to the Supervisor of Elections, and kept by the Supervisor of Elections, as vouchers to the primary or election, for a period of at least two years.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 944, § 1(36); June 26, 1968, Pt. II, No. 2252, § 5, Sess. L. 1968, p. 70; May 3, 1984, No. 4934, § 13(h), Sess. L. 1984, p. 131.)

HISTORY

Source. Former Title 18 V.I.C. § 284.

References in text. Section 621 of this title, referred to in the third sentence, no longer refers to sealed packages, containers or envelopes.

Amendments-1984. Deleted "ballots cast, including those declared void, and" preceding "tally papers, shall" and substituted "of" for "and all" preceding "the ballots" in the first sentence, substituted "electronic voting machines" for "ballot boxes" preceding "and the district" in the third sentence, and deleted "along with the ballots" preceding "delivered" in the fourth sentence.

-1968. Substituted "Election" for "Legislative" following "polling district" in the form in the first sentence.

-1963. Inserted second sentence.

Effective date of amendments-1968. For effective date of amendment, see note set out under section 41 of this title.

§ 627. General rule for determining result; notification of candidates

(a) Each board of elections, after having received all statements, books, lists, papers, vouchers, ballots, ballot boxes and district register from each polling district and polling place in its district, shall convene not later than one day following the receipt thereof and determine the total number of votes cast in the election district for each candidate;

Provided, That in the case of the election to the boards of education and elections, the boards of elections shall convene not later than three days after receipt of the aforementioned materials.

(b) The chairman, or in his absence, the vice-chairman, of each board of elections shall, within 5 days after the determination by the board, notify in writing each candidate nominated or elected from the district, and within 24 hours after the determination, report the result thereof of the Supervisor of Elections in writing. Upon receiving these reports, the Supervisor of Elections shall determine the candidates who have been nominated for election at large, or who have been elected at large, and shall notify them within 5 days after such determination.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(36); June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; Oct. 4, 1968, No. 2342, § 5, Sess. L. 1968, Pt. II, p. 336.)

HISTORY

Source. Former Title 18 V.I.C. § 285; New Hampshire law, N.H.R.S.A. 58:7.

Amendments-1968. Subsection (a): Added proviso and omitted provisions relating to candidate receiving greatest number of votes as nominated or elected.

-1963. Added reference in first sentence to polling place.

ANNOTATIONS

Analysis

1. Construction.
2. Unopposed candidates.
3. Recess in canvassing of votes.

1. CONSTRUCTION.

Word "shall" in election statutes was not clear manifestation of legislative mandatory intent, such that violations of Virgin Islands election laws that Senator alleged warranted new election, since statutes did not go to election's merits, were intended merely to regulate election's conduct, did not provide that failure to adhere rendered election void, and none of election's irregularities resulted from fraud. *Bryan v. Todman*, 28 V.I. 42 (Terr. Ct. St. C. 1992).

2. UNOPPOSED CANDIDATES.

If a candidate for public office in a general election is unopposed the Supervisor of Elections may not declare him elected; there must be an opportunity to vote on the part of the voters and an actual casting of votes., 7 V.I.Op.A.G. 360.

3. RECESS IN CANVASSING OF VOTES.

It is not proper for the board of elections to convene to canvass ballots, recess for the night, and resume and complete the canvass the next day, unless the recess can be justified by unusual circumstances., 8 V.I.Op.A.G. 25.

§ 628. Tied results; new election

If two or more candidates receive an equal number of votes at an election, a new election shall be held on the eighth day after the determination to determine which of the tied candidates shall be elected to the particular position to be filled.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Former Title 18 V.I.C. § 286.

§ 629. Recounts; procedure; new election; appeal

(a) A petition for a recount may be filed by any candidate in a primary or election who believes that there has been fraud or error committed in the canvassing or return of the votes cast at such primary or election. The petition shall be filed with the board of elections of the legislative district in which the recount is requested. Such petition shall contain a statement sworn to before a notary public that the petitioner has reason to believe and does believe that the records or copies of records made by the election officers at one or more polling places in such district are erroneous, specifying wherein he deems such records or copies thereof to be in error; or that votes were cast by persons not entitled to vote therein, and that he believes that a recount of the ballots cast in the district will affect the nomination or election of one or more candidates voted for at such primary or election. The petition may not be filed later than seven (7) working days after the board has issued its official report of the primary, general or special election at which the votes were cast.

(b) Upon the filing of the petition, the board of elections for the district in which the recount is requested shall decide within 3 days whether the recount shall take place. If the board decides in favor of the recount, it shall cause notice of the recount to be given in a manner decided by it. The recount shall be held within 10 days after the filing of the petition and shall be public. The board of elections shall make triplicate certificates of such determination under oath showing the result of the primary or election and what persons were declared nominated for election or elected to fill offices, one of which shall be filed with the Supervisor of Elections, one with the chairman of the board of elections, and one with the person filing the petition for recount. The persons receiving the greatest number of votes, as shown by the statements, up to the number to be nominated or elected shall be deemed to have been nominated or elected, but if, at an election, there shall be no choice by reason of two or more candidates having received an equal number of votes for the office, a new election shall be held in accordance with section 628 of this title.

(c) If the board of elections decides not to approve the petition and grant the recount, it shall record the reasons for such decision. The aggrieved candidate may, within five days after the decision of the board has been made, appeal his case to the district court.

The district court shall review the appeal promptly and render a decision. If the decision is in favor of a recount, the board of elections shall be so notified and shall proceed as provided in subsection (b) of this section.

(d) A recount under this section shall be conducted by the board or by persons designated by the board. The chairman of the board of elections shall designate the specific area of the place of the recount within which the recount will be conducted. Only the candidates whose names appeared on the ballot in the election district, or a specific designee who is to be present on behalf of any such candidate, may remain within the recount area. Any person may be ejected from the recount area or from the place of the recount upon the determination by the chairman of the board or his designee that such person is disrupting the recount procedure.

(Added Feb. 20, 1963, No. 936, § 1; amended May 29, 1968, No. 2214, § 11, Sess. L. 1968, Pt. II, p. 22; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; May 3, 1984, No. 4934, § 13(i), Sess. L. 1984, p. 131.)

HISTORY

Source. Former Title 18 V.I.C. § 287(a), (b), (c).

Amendments-1984. Subsection (a): Rewrote the fourth sentence.

-1968. Subsection (d): Act No. 2214 added last three sentences.

Act No. 2252 substituted "election district" for "legislative district".

Effective date of amendments-1968. See note under section 41 of this title.

ANNOTATIONS

1. JURISDICTION.

Individuals cannot be deprived of their right to judicial adjudication in political questions arising prior to the primary elections by a requirement that they await the outcome of the primary and only then resort to the statutory proceeding provided by this section before institution of suit. *Alexander v. Todman*, 5 V.I. 137, 337 F.2d 962 (C.A.3d 1964).

§ 630. Watchers at canvasses

The watchers authorized by section 552 of this title may, in the manner provided by that section, be present at any canvass of votes by the boards of elections.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. Former Title 18 V.I.C. § 288 (part).

ANNOTATIONS

1. NOTICE OF CANVASSING OF VOTES.

The board of elections must give each candidate and each political party notice of the time and place at which the board will canvass votes., 8 V.I.Op.A.G. 25.

Chapter 25. Absentee Voting

HISTORY

Codification. Chapter heading changed from "Absentee Voting by Military Personnel" to "Absentee Voting" to conform to amendments of Act July 3, 1972, No. 3228.

Reapportionment of Legislature; provisional repeal of certain laws. Establishment of Commission on Reapportionment of the Legislature for purpose of preparing and submitting to Legislature, by January 9, 1968, a recommended plan for reapportionment of the Legislature, and provisional repeal of all provisions of this title which refer to legislative districts of St. Thomas, St. Croix, and St. John, see Acts Feb. 15, 1967, No. 1850; Sept. 18, 1967, No. 2054, set out in note preceding chapter 1 of this title.

SECTION ANALYSIS

- 661. Definitions.
- 662. When permitted.
- 663. Forms of ballots and envelopes.
- 664. Applications for ballots; time.
- 665. Voting procedure; delivery of marked ballots; time limit; record.
- 666. Examination of affidavits; filing; delivery of unopened envelopes to Supervisor of Elections.
- 667. Counting absentee ballots; watchers.
- 668. Challenges; procedure.
- 669. Immaterial defects.
- 670. Death of voter.
- 671. Registration.
- 672. Delivery of ballots to Supervisor of Elections.
- 673. Voting in person.
- 674. Construction with other provisions.
- 675. Use of federal war ballot.

§ 661. Definitions

As used in this chapter:

- (1) "Absentee" means:
 - (a) any member of the Armed Forces of the United States or;
 - (b) any person registered and otherwise qualified to vote in elections in the United States Virgin Islands who is:
 - (i) a person or his spouse who is engaged in educational pursuits and who is residing either outside the Territory of the Virgin Islands or in an election district other than that in which he is registered; or

(ii) an officer or employee of the Government of the United States Virgin Islands or the Government of the United States assigned to official duties outside of the election district in which he is registered; or

(iii) the spouse of any member of the Armed Forces of the United States; or

(iv) any person who has not been out of the election district in which he is registered for more than 90 days prior to the date of the election for which absentee status is sought; or

(v) unable to appear personally at the polling place of the election district in which he is a qualified voter because of illness or physical disability, whether permanent or temporary, or because he will be or is a patient in a hospital, nursing home, or home for the aged; or

(vi) an inmate or patient in a Veterans' Administration hospital; or

(vii) absent from the district of his residence because of his accompanying a spouse, parent or child who would be entitled to apply for the right to vote by absentee ballot; or

(viii) absent from his voting residence because he has been detained in jail awaiting action by a grand jury or trial, or has been confined in prison after a conviction for an offense other than a felony.

(2) "Armed forces of the United States" means the principal or auxiliary units of the Army, Navy, Air Force, Marine Corps, Coast Guard or Merchant Marine, whether composed of male or female persons or both, and any religious groups or welfare or service agencies or organizations assisting members of the armed forces, which, or any member of which, are officially attached to and serving with the armed forces; and

(3) "Election" means either "general election" or "primary election" as defined in section 1 of this title or a referendum officially sanctioned as provided by law.

(Added Feb. 20, 1963, No. 936, § 1; amended July 3, 1972, No. 3228, § 2, Sess. L. 1972, p. 141; May 16, 1974, No. 3565, § 1, Sess. L. 1974, p. 94; Jan. 5, 1982, No. 4659, § 1(a), Sess. L. 1981, p. 280; Aug. 26, 1985, No. 5091, § 1(a), (b), Sess. L. 1985, p. 107.)

HISTORY

Source. This chapter was suggested by New Hampshire law, N.H.R.S.A. 60:1 et seq., and by Vermont law, 17 V.S.A. § 121 et seq.

Revision note. Inserted "United States" preceding "Virgin Islands" in par. (1)(b)(ii).

Amendments-1985. Paragraph (1)(b)(ii): Substituted "election district in which he is registered" for "Territory" following "outside of the".

Paragraph (1)(b)(iv): Substituted "election district in which he is registered" for "territorial jurisdiction" preceding "for more than".

-1981. Paragraph (1): Amended generally.

-1974. Paragraph (1): Redefined "absentee" for the purposes of absentee voting.

-1972. Amended generally.

§ 662. When permitted

Any person who fulfills the definition of an absentee pursuant to section 661 of this chapter who, on the day of an election, is absent from the election district in which he is registered, and therefore is unable to vote in person, may vote at such election in the manner provided by this chapter. In the case of a member of the armed forces of the United States or his spouse, the commanding officer of such member shall certify his or her status as such, and in the case of a college student or his spouse, the registrar of his learning institution shall certify his or her status as such.

(Added Feb. 20, 1963, No. 936, § 1; amended July 3, 1972, No. 3228, § 2, Sess. L. 1972, p. 142; Aug. 26, 1985, No. 5091, § 1(c), Sess. L. 1985, p. 107.)

HISTORY

Source. See note under section 661 of this title.

Amendments-1985. Substituted "election district in which he is registered" for "Territory of the United States Virgin Islands" preceding "and therefore" in the first sentence.

-1972. Amended generally.

§ 663. Forms of ballots and envelopes

(a) Not less than thirty (30) days prior to each election the Supervisor of Elections shall prepare in such quantities as he deems necessary the following papers:

1. Absentee ballots similar in form to the official ballots and containing the forwarding address for the appropriate board of election; provided, however, that the names of candidates may be placed on ballots in the order in which the candidates filing for a particular office have filed.

2. Envelopes of sufficient size to contain the ballots specified in paragraph 1 of this section; on which shall be printed the words "Official Absentee Ballot" and nothing else.

3. Envelopes of sufficient size to contain the ballots and ballot envelopes specified in paragraphs 1 and 2 of this section, on which shall be printed the following:

All persons voting by absentee ballot shall subscribe to and take the following oath:

State of _____
County of _____

I, _____, do solemnly swear (or affirm) that I am the identical person whom I represent myself to be; that, I have been a resident of the Virgin Islands for _____ years, _____ months, and of the Election District of _____ for _____ years, _____ months; that I now reside at _____ within the Virgin Islands; that I was born _____

_____ at _____

(date of birth) _____ (place of birth) _____
(If naturalized, give place and date of naturalization) _____; that (I am a legal voter) (I am qualifying as a legal voter) in said election district; that I am unable to vote in person at the election to be held in said election district on _____; that I have read carefully the

(date of election) _____
instructions forwarded to me with the ballot herein enclosed, and sealed the within ballot. So help me God.

(Signature) _____

(Seal, if any)

Name _____

Official Title _____

Residence _____

4. Envelopes of a sufficient size to contain the ballots and envelopes specified in paragraphs 1 and 2 above, addressed to the boards of elections for the several election districts, upon which shall be printed "Enclosed is the ballot of an armed forces absentee voter", and at the top thereof blank spaces for the name, address and voting place of the sender, with the words "Name", "Address", and "Election District" appropriately printed thereon. The Supervisor shall affix air mail, special delivery postage to each such envelope to be sent to an applicant for absentee ballot outside the election district in which he or she is qualified to vote.

5. Printed instructions reading as follows:

"INSTRUCTIONS FOR ABSENTEE VOTERS"

"If you are physically unable to personally mark ballots they may be marked according to your direction by the person who administers the oath, in which case such person shall certify on the outside thereof that it was so marked with his assistance, and shall thereafter give no information regarding the same."

6. Copies of this chapter, with such explanatory matter and additional instructions as the Supervisor of Elections, with the approval of the Attorney General, deems appropriate to carry into effect the purposes of this chapter.

(b) The Supervisor of Elections shall determine the size, weight, type and color of paper of the items required to be prepared by this section, and shall retain for his own use so many of the papers provided for in this section as he deems sufficient.

(Added Feb. 20, 1963, No. 936, § 1; amended May 29, 1968, No. 2214, § 12, Sess. L. 1968, Pt. II, p. 22; June 26, 1968, No. 2252, § 5, Sess. L. 1968, Pt. II, p. 70; July 3, 1972, No. 3228, § 3, Sess. L. 1972, p. 142; May 16, 1974, No. 3565, § 2, Sess. L. 1974, p. 94; Oct. 27, 1978, No. 4242, § 2, Sess. L. 1978, p. 274; May 3, 1984, No. 4934, § 14(a), Sess. L. 1984, p. 131; Aug. 26, 1985, No. 5091, § 1(d), Sess. L. 1985, p. 107; Oct. 21, 1988, No. 5367, § 7, Sess. L. 1988, p. 254; Sept. 2, 1994, No. 6009, § 3(1), (6), Sess. L. 1994, pp. 162, 163.)

HISTORY

Source. See note under section 661 of this title.

Amendments-1994. Subsection (a): Added "not less than thirty (30) days" preceding "prior to" in the introductory paragraph and amended the oath generally in paragraph (3).

-1988. Subsection (a): Added "provided, however, that the names of candidates may be placed on ballots in the order in which the candidates filing for a particular office have filed" in item 1.

-1985. Subsection (a): Added "and containing the forwarding address for the appropriate board of election" following "official ballots" at the end of paragraph 1.

-1984. Subsection (a): Deleted "but printed on paper differing in color from that used for official or sample ballots" following "official ballots" in paragraph 1.

-1978. Subsection (a): Added to the language of the oath contained in paragraph 3, "that I now reside at _____ within the Virgin Islands;".

-1974. Subsection (a): Added new subdivision 2 and renumbered former subdivisions 2 to 5 as subdivisions 3 to 6. In subdivision 3, inserted reference to subdivision 2.

-1972. Substituted "absentee ballot" for "armed forces absentee ballot" wherever appearing.

Subdivision (a)(3): Substituted "I have been a resident" for "before I became a member of the armed forces of the United States, I was a resident" and omitted the words "by reason of services in the armed forces of the United States".

Subdivision (a)(5): Substituted the heading "INSTRUCTIONS FOR ABSENTEE VOTERS" for "INSTRUCTIONS FOR MEMBERS OF THE ARMED FORCES".

-1968. Subdivision (a)(4): Act No. 2214 added provision relating to postage.

Act No. 2252 substituted "election district" for "legislative district".

Effective date of amendments-1988. Act Oct. 21, 1988, No. 5367, § 8(a), Sess. L. 1988, p. 254, provided that notwithstanding section 6 of this title, prohibiting amendments to this title 6 months preceding the date of a general election, section 7 of the act, which amended subsec. (a), item 1 of this section, was to take effect upon enactment, Oct. 21, 1988.

-1978. Act Oct. 27, 1978, No. 4242, § 3, Sess. L. 1978, p. 274, provided: "Notwithstanding the contrary provision of Title 18, section 6, Virgin Islands Code, the amendment to Title 18 made by this Act [which amended subsec. (a), par. 3 of this section and section 664 of this title] shall be effective on the date of enactment of this Act [Oct. 27, 1978]."

-1968. See note under section 41 of this title.

§ 664. Applications for ballots; time

An application for an absentee ballot shall be made in person or in writing to the Supervisor of Elections by the absentee or anyone in his behalf, which application shall contain the absentee's name, present mailing address, legal residence and satisfactory proof of his status as an absentee as defined by this chapter. The application must be received by the Supervisor of Elections at least 7 working days before the date of the election at which the absentee desires to vote, except that in the case of a person whose illness or disability commences on a day following the seventh day before such election, or in the case of a person who delivers his application to the board in person, such application must be received not later than the Monday preceding the election. Upon receipt of such an application, the Supervisor of Elections shall, if satisfied that the applicant is entitled to vote as an absentee, forthwith forward by mail or deliver in person to the absentee an absentee ballot, with one each of the envelopes specified in paragraphs 2, 3 and 4 of subsection (a) of section 663 of this chapter, and necessary explanatory and instructional matter as provided for in paragraph 5 of such subsection (a). Promptly after the last day of receiving applications for absentee ballots the Supervisor of Elections shall notify each board of elections of names and stated legal residence of all absentees claiming legal residence in its election district to whom absentee ballots have been sent for use at the ensuing election, and shall also cause the registration cards of such absentee voters to be removed from the district register prior to the date of the election. Such cards

shall be replaced in the district register after the election in question has been conducted. The single absentee ballot application shall permit the person to register to vote if not so registered, and to request an absentee ballot for each election held within that calendar year for which the voter is eligible to vote.

No such ballot shall be forwarded to any absentee whose application therefor is received by the Supervisor of Elections less than 7 working days before the election. In such cases, the Supervisor of Elections shall retain the application in the files of his office, and shall notify the applicant, by mail, of the reason why it cannot be honored. He shall mail or deliver a duplicate of such notice to the board of elections concerned.

All applications received by the Supervisor of Elections under this section, whether received in sufficient time, or not, shall be stamped in his office with the date of receipt by him.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, No. 2252, § 5; July 3, 1972, No. 3228, § 4, Sess. L. 1972, p. 142; May 16, 1974, No. 3565, § 3, Sess. L. 1974, § 3, p. 95; Oct. 27, 1978, No. 4242, § 1, Sess. L. 1978, p. 274; Jan. 5, 1982, No. 4659, § 1(b), Sess. L. 1981, p. 281; May 3, 1984, No. 4934, § 14(b), (c), Sess. L. 1984, p. 131; Sept. 2, 1994, No. 6009, § 3(2), Sess. L. 1994, p. 162.)

HISTORY

Source. See note under section 661 of this title.

Amendments-1994. Added the sixth sentence.

-1984. Inserted "working" following "7" in the second sentence of the first paragraph and in the first sentence of the second paragraph.

-1981. Added "except that in the case of a person whose illness or disability commences on a day following the seventh day before such election, or in the case of a person who delivers his application to the board in person, such application must be received not later than the Monday preceding the election" following "desires to vote" in the second sentence of the first paragraph.

-1978. Substituted the number "7" for "20" wherever it appeared.

-1974. Amended first paragraph generally.

-1972. Amended generally.

-1968. Substituted "election district" for "legislative district".

Effective date of amendments-1978. See note under section 663 of this title.

§ 665. Voting procedure; delivery of marked ballots; time limit; record

(a) An absentee who has received an absentee ballot may vote by mailing or causing to be delivered to the board of elections for the proper election district such ballot marked and sworn to, as follows:

After marking the ballot, the voter shall enclose and seal it in the envelope provided for that purpose. He shall then swear and subscribe to a self-administered oath which shall be provided to the absentee on a printed form along with the absentee ballot and he shall further execute the affidavit on such envelope and shall enclose and seal the

envelope containing the ballot in the return mailing envelope printed, as provided in paragraph 3 of subsection (a) of section 663 of this title, with the name and address of the board of elections for the election district in which he desires to vote, endorse thereon his name and return address, and shall then mail the envelope, or cause it to be delivered, to the board of elections; provided that such envelope must be postmarked no later than the day of election and must be received by the board no later than ten days after the day of election for the absentee vote to be counted. Absentee ballots received from overseas in franked envelopes, which may not be postmarked, or from persons who are members of the Armed Forces of the United States or a spouse of any member of the Armed Forces of the United States, shall be counted if they are received by the board no later than thirty (30) days after the day of the election regardless of the postmark date. In the case of a recount authorized by the board, any ballot postmarked no later than the day of election and received by the board no later than 5 p.m. the day before the recount shall be counted.

(b) Any envelope containing an absentee ballot mistakenly mailed by the absentee voter to the Supervisor of Elections contrary to the provisions of this section shall be mailed or delivered by the Supervisor of Elections to the proper board of elections if it can be so mailed or delivered by him before the time for the closing of the polls on the day of election, and if the proper board can be determined without breaking open the inner envelope containing the ballot.

(c) All mailing envelopes containing absentee ballots received by a board of elections under this section, whether received in sufficient time for the ballots to be counted as provided in this chapter, or not, shall be stamped or endorsed by a member of the board or the clerk with the date of their receipt in the board's office, and, if received on the day of election, with the actual time of day received, and such record shall be signed or initialed by the board member or clerk making it.

(d) If the absentee resides outside the United States or is a member of the United States Armed Forces or a spouse or dependent of a member of the Armed Forces and is otherwise a qualified elector, and believes that he will be unable to vote timely by mail, the absentee may apply for registration and an absentee ballot by facsimile. The absentee may also request that the Supervisor of Elections transmit an absentee ballot to him by facsimile. The absentee may then either mail or transmit by electronic facsimile his marked ballot to the proper board of elections.

(1) If the absentee chooses to transmit the marked ballot to the board of elections by facsimile, the transmittal shall contain the following statement:

"I understand that as a result of my transmittal by facsimile of my marked absentee ballot, I hereby voluntarily waive my right to a secret ballot."

(2) This statement shall be followed by the absentee's signature, social security number and date of signature. Upon receipt of the transmittal, the board of elections shall place the marked ballot along with the signed statement and affidavit in an appropriately marked envelope and seal it. The board of elections and the staff thereof shall take the necessary steps to maintain and safeguard the confidentiality of the marked ballots received by facsimile.

(Added Feb. 20, 1963, No. 936, § 1; amended June 26, 1968, No. 2252, § 5; July 3, 1972, No. 3228, §§ 5, 6, Sess. L. 1972, p. 143; May 16, 1974, No. 3565, § 4, Sess. L. 1974, p. 96; Jan. 5, 1982, No. 4659, § 1(c), Sess. L. 1981, p. 282; May 3, 1984, No. 4934, § 14(d),

Sess. L. 1984, p. 131; Aug. 26, 1985, No. 5091, § 1(e), Sess. L. 1985, p. 107; Sept. 2, 1994, No. 6009, § 3(3)-(5), Sess. L. 1994, p. 162.)

HISTORY

Amendments-1994. Subsection (a): Deleted the first through fifth sentences and rewrote the former seventh and eighth sentences.

Subsection (d): Added.

-1985. Subsection (a): In the second paragraph, substituted "ten" for "six" preceding "days after" in the seventh and eighth sentences and added the ninth sentence.

-1984. Subsection (a): Substituted "provided that such envelope must be postmarked no later than the day of election and must be received by the board no later than six days after the day of election for the absentee vote to be counted" for "in time for it to be received by the board not later than the time for closing the polls on the day of election" following "delivered to the board of elections" in the seventh sentence, added the eighth sentence and made other minor stylistic changes in the second paragraph.

-1981. Subsection (a): In the second paragraph, inserted "and in the case of a student or his spouse to the registrar of the institution the student attends" following "representative" in the first sentence and "of subsection (a)" between "paragraph 3" and "of section 663 of this title" in the last sentence.

-1974. Former subsection (b) repealed; and former subsections (c) and (d) redesignated as (b) and (c).

-1972. Section amended generally by striking the phrases "armed forces absentee ballot" and "armed forces absentee" wherever appearing and substituting therefor the phrases "absentee ballot" and "absentee" respectively.

Subsection (a): First sentence in second paragraph amended provisions relating to delivery of ballot.

-1968. Substituted "election district" for "legislative district".

§ 666. Examination of affidavits; filing; delivery of unopened envelopes to Supervisor of Elections

(a) Upon receipt by a board of elections; within the time prescribed by section 665 of this title of the mailing envelope containing the affidavit envelope and the absentee ballot envelope, after it has been stamped or endorsed in a manner provided by subsection (c) of such section, shall be opened by the board or a part thereof or by the clerk in the presence of a board member, for the purpose of examining the envelope on which is contained the affidavit prescribed by paragraph 3 of section 663 of this title. The affidavit appearing on such envelope, if properly executed, shall be prima facie evidence of the voter's qualification to become a voter. The mailing envelope and the affidavit envelope in which the ballot envelope is sealed shall be attached and placed in a locked file until the time for counting ballots as provided in section 667 of this title. The mailing and affidavit envelope shall be destroyed at the time provided for destruction of the absentee ballots.

(b) All such envelopes received by the boards of elections after the time specified in subsection (a) of section 665 hereof shall be mailed or delivered to the Supervisor of Elections and retained by him, unopened, until, as permitted by law, the ballots cast at the election are destroyed, at which time the envelopes shall likewise be destroyed, unopened and unexamined.

(Added Feb. 20, 1963, No. 936, § 1; amended July 3, 1972, No. 3228, § 6, Sess. L. 1972, p. 143; May 16, 1974, No. 3565, § 5, Sess. L. 1974, p. 96; May 3, 1984, No. 4934, § 14(e), Sess. L. 1984, p. 132.)

HISTORY

Source. See note under section 661 of this title.

Amendments-1984. Subsection (b): Substituted "time specified in subsection (a) of section 665 hereof" for "closing the polls on the day of the election" following "after the".

-1974. Subsection (a): Amended generally.

-1972. Amended by striking the phrase "armed forces absentee ballot" and substituting therefor the phrase "absentee ballot".

§ 667. Counting absentee ballots; watchers

(a) Each board of elections shall, after the time specified in subsection (a) of section 665 hereof, remove all absentee ballots from the file referred to in subsection (a) of section 666 hereof, remove the ballot envelope from the affidavit envelope and place such ballot envelope in a locked ballot box. After all absentee ballot envelopes have been placed in the ballot box, the box shall be opened and the ballots removed from the ballot envelopes and counted. The board of elections shall announce and add the total number thereof to the election returns, according to polling districts.

(b) The watchers authorized for general elections by section 552 of this title may, in the manner provided by that section, be present at any count of absentee ballots under this chapter.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(37); June 26, 1968, No. 2252, § 5; July 3, 1972, No. 3228, § 6, Sess. L. 1972, p. 143; May 16, 1974, No. 3565, § 6 Sess. L. 1974, p. 96; amended May 3, 1984, No. 4934, § 14(f), Sess. L. 1984, p. 132.)

HISTORY

Source. See note under section 661 of this title.

Amendments-1984. Subsection (a): Substituted "elections" for "election" preceding "shall" and "after the time specified in subsection (a) of section 665 hereof" for "at the close of the polls" thereafter and "hereof" for "of this title" following "666" in the first sentence, "opened and the ballots removed from the ballot envelopes and counted" for "shaken and the ballots mixed" in the second sentence, deleted the former third sentence and "or according to polling places, if there is more than one polling place for a polling district" in the present third sentence.

-1974. Subsection (a): Changed procedures for counting absentee ballots.

-1972. Amended by striking the phrase "armed forces absentee ballots" wherever appearing and substituting therefor the phrase "absentee ballots".

-1968. Substituted "election district" for "legislative district".

-1963. Subsection (a): Inserted provision relating to polling places.

§ 668. Challenges; procedure

All absentee ballots received by a board of elections shall be subject to challenge by a watcher or other qualified elector prior to the removal of the absentee ballot envelope from the envelope containing the applicant's affidavit, for noncompliance with this chapter or for any person allowed by applicable provision of law, and if such a ballot is challenged the chairman or vice-chairman of the board shall endorse on the affidavit envelope the word "Challenged", with the name and address of the voter who makes the challenge. If the board is satisfied that the challenge is well grounded, the ballot envelope shall not be removed from the affidavit envelope and shall not be counted, but shall be preserved and mailed or delivered to the Supervisor of Elections with other rejected ballots; otherwise, the affidavit envelope shall be opened and the absentee ballot envelope placed in the ballot box as provided in section 667(a) of this title.

(Added Feb. 20, 1963, No. 936, § 1; amended July 3, 1972, No. 3228, § 6, Sess. L. 1972, p. 143; May 16, 1974, No. 3565, § 7, Sess. L. 1974, p. 97.)

HISTORY

Source. See note under section 661 of this title.

Amendments-1974. Amended generally.

-1972. Amended by striking the phrase "armed forces absentee ballots" and substituting therefor the phrase "absentee ballots".

§ 669. Immaterial defects

No ballot transmitted under this chapter shall be rejected for any immaterial addition, omission or irregularity in the preparation or execution of any writing or affidavit required by this chapter.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 661 of this title.

§ 670. Death of voter

No ballot mailed or delivered under this chapter shall be counted if the board of elections is cognizant of the fact that the voter has died prior to the opening of the polls on the day of election.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 661 of this title.

§ 671. Registration

Before the delivery of the ballots cast at a general election to the Supervisor of Elections as required by section 626 of this title, the board shall enter the registration of each absentee, whose vote was counted, in the general register, and the proper district register or subdivision thereof, if not already so entered, by the insertion of registration cards therein, filled in to the extent allowed by the information given in his affidavit on the ballot envelope. It shall be indicated on such cards that the registrant is an absentee, and, in the proper place on his card in the district register or subdivision thereof, a board member or the clerk shall write or stamp the date of each election at which the registrant voted or votes as such absentee, and shall sign his name or initials. When the registrant returns to his district and resumes his permanent residence, he shall be required to complete his registration before he is permitted to vote at any primary or election held thereafter. The provisions of this section shall apply to members of the Armed Forces of the United States and all other persons desiring to vote by absentee ballot shall first comply with the provisions of chapter 5 of this title.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(38); July 3, 1972, No. 3228, §§ 6, 7, Sess. L. 1972, p. 144; Sept. 1, 1972, No. 3306, Sess. L. 1972, p. 442; May 16, 1974, No. 3565, § 8, Sess. L. 1974, p. 97; Jan. 5, 1982, No. 4659, § 1(d), Sess. L. 1981, p. 282.)

HISTORY

Source. See note under section 661 of this title.

Amendments-1981. Rewrote the former last two sentences as the present last sentence.

-1974. Changes in phraseology in the penultimate sentence were made to reflect students engaged in full-time educational pursuits.

-1972. Act No. 3228, § 6, amended section by striking the phrase "armed forces absentee" wherever appearing and substituting therefor the phrase "absentee".

Act No. 3228, § 7, added last sentence relating to section applicability to members of armed forces and provided that other persons shall comply with chapter 5 of this title.

Act No. 3306 deleted last sentence added by Act July 3, 1972, No. 3228, § 7, and added two new sentences pertaining to the registration of certain absentee electors.

-1963. In first sentence, changed "regular register" to "general register" and, in first and second sentence, added reference to subdivision of district register.

§ 672. Delivery of ballots to Supervisor of Elections

The absentee ballots counted and rejected by the board of elections shall, after the registration required by section 671 of this title, be wrapped and sealed in separate

packages properly marked as to their contents, and shall be delivered to the Supervisor of Elections along with the other ballots required by section 626 of this title to be delivered to him. The Supervisor of Elections shall preserve them with such other ballots for a period of at least two years.

(Added Feb. 20, 1963, No. 936, § 1; amended July 3, 1972, No. 3228, § 6, Sess. L. 1972, p. 143.)

HISTORY

Source. See note under section 661 of this title.

Amendments-1972. Amended by striking the phrase "armed forces absentee ballots" and substituting therefor the phrase "absentee ballots".

§ 673. Voting in person

Nothing in this chapter shall prevent a voter who has mailed or delivered a ballot under this chapter from voting in person. An applicant for an absentee ballot shall vote in person if he is able to do so even though his application for such ballot was made in good faith; and if it is shown that he is able to vote in person, his absentee ballot shall not be counted.

The Supervisor of Elections shall promulgate rules and regulations designed to insure that no elector casts both an absentee ballot and a regular ballot in the same election.

(Added Feb. 20, 1963, No. 936, § 1; amended July 3, 1972, No. 3228, § 6, Sess. L. 1972, p. 142; May 16, 1974, No. 3565, § 9, Sess. L. 1974, p. 97.)

HISTORY

Source. See note under section 661 of this title.

Amendments-1974. Added new paragraph providing for promulgation of rules and regulations for casting of absentee and regular ballot in same election.

-1972. Amended by striking the phrase "armed forces absentee ballot" and substituting therefor the phrase "absentee ballot".

§ 674. Construction with other provisions

If any provisions of this chapter are inconsistent with other provisions of this title, this chapter controls insofar as it relates to the method of voting as herein prescribed.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 661 of this title.

§ 675. Use of federal war ballot

In addition to and supplementing the provisions of this title, the provisions of any federal statute for a federal war ballot and for procedures affecting and facilitating voting by persons serving in the armed forces of the United States as defined in section 661 of this title, are, if such statute is applicable to Virgin Islands residents so serving, hereby authorized for use in this territory.
(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 661 of this title.

Chapter 27. Offenses and Penalties

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Subchapter I. General Provisions

§ 741. Definitions

As used in this chapter, unless the context requires a different construction, application or meaning:

"election official" means any election officer or clerk of election, and any member of a board of elections or employee of a board of elections; and

"whoever" means any individual, and, where consistent with collective capacity, a committee, firm, partnership, company, corporation, club, organization, association, or other combination of individuals.

(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(39).)

HISTORY

Source. This chapter was suggested by Alaska laws, Laws 1960, ch. 83, Art. XI, § 11.01 et seq.; Purdon's Penn. Statutes, Title 25, §§ 951-44, 3540 et seq., except that subchapter IV was New Hampshire law, N.H.R.S.A. 60:1 et seq., and by Vermont law, 17 V.S.A. § 121 et seq.

Amendments-1963. Struck out definition of "election".

Subchapter II. Registration Offenses

§ 761. Disobedience to order or subpoena of election board or board member

Whoever willfully disobeys a lawful order of a board of elections or of a member thereof, or refuses to obey its or his subpoenas duly issued and served under the provisions of chapter 5 of this title, shall be fined not more than \$500.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 762. Wrongful registration, entries or alterations by board official or employee, refusal to register

Whoever, being a member of a board of elections, or clerk or other board employee:

(1) knowingly registers, or permits to be registered, a person not entitled to be registered under this title; or

(2) inserts, or intentionally permits to be inserted, a name or other entries in any registration card provided for under chapter 5 of this title without a proper application in person on the part of the person registered, except as authorized in this title with respect to armed forces absentees, or without requiring the proper evidence of the right of the applicant to be registered; or

(3) materially alters any registration card after the entries have been made, except upon an order of the board or the district court; or

(4) refuses to register a person entitled to be registered under this title -

shall be fined not more than \$500 or imprisoned not more than one year, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 763. Preventing, or assistance in preventing, registration or change in party enrollment

Whoever, being a member of a board of elections, or clerk or other employee of the board, or any other person, knowingly and willfully prevents or assists in preventing, or, by coercion, threats of bodily injury, or intimidation, prevents or attempts to prevent, a person from being registered or from changing his political enrollment in accordance with the provisions of this title, shall be fined not more than \$500 or imprisoned not more than one year, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 764. Wrongful registration, or attempt to register, by person

Whoever applies for registration under this title, or notifies the board of elections of a change of his residence address, knowing or having reason to know, that he is not entitled to be registered, or to have his residence address changed, or declares as his residence a place or address which he knows is not his legal residence, or falsely personates another in an application for registration, or knowingly offers false naturalization papers to establish his claim to be registered, shall be fined not more than \$500 or imprisoned not more than one year, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 765. Neglect or refusal to furnish information or exhibit records

Whoever willfully neglects or refuses to furnish to any inspector of registration any information which he is authorized by chapter 5 of this title to obtain, or to exhibit any records, papers or documents authorized by such chapter to be inspected by him, shall be fined not more than \$100 or imprisoned not more than 180 days, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 766. Malicious filing of petition to strike off registration or party affiliation

Whoever, maliciously and without probable cause, challenges a person under the provisions of sections 101(a) or 108(b), files a petition for the purpose of striking off the registration or party affiliation of an elector, shall be fined not more than \$100 or imprisoned not more than 180 days, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

Subchapter III. Election Offenses

§ 781. Refusal to allow employees time off

Whoever, being an employer, refuses to allow an employee time off for the purpose of voting, or, after allowing the time off, deducts the time from the wages of the employee, shall be fined not more than \$50.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 782-784. Omitted

HISTORY

There are no sections 782, 783 and 784 in the statute which enacted this chapter and supplied section numbers and headings.

§ 785. Improper distribution and printing of ballots

(a) Whoever, having contracted with, or become employed by, the Government of the Virgin Islands to print or reproduce in any manner any official ballot, willfully appropriates to himself, or gives or delivers to, or knowingly permits to be taken by anyone other than a person authorized by the Supervisor of Elections, any official ballots, or knowingly prints or reproduces or causes to be printed or reproduced any official ballots in any other form or with any other content than that prescribed by law or as directed by the Supervisor of Elections, shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

(b) As used in subsection (a) of this section, "official ballot" and "official ballots" include any official ballot or ballots prepared or caused to be prepared by the Supervisor of Elections as required by this title, and any unofficial ballot or ballots prepared or caused to be prepared by a board of elections as authorized by section 554 of this title.
(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 786. Improper possession of ballot

Whoever, other than an election official or other person authorized by law or by the Supervisor of Elections, has in his possession outside of the voting room any official ballot or unofficial ballot prepared under the authority of section 554 of this title, shall be fined not more than \$500 or imprisoned not more than one year, or both.
(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 787. Counterfeiting of ballot

Whoever makes, or knowingly has in his possession, any counterfeit of an official ballot or of an unofficial ballot prepared under the authority of section 554 of this title, shall be fined not more than \$500 or imprisoned not more than one year, or both.
(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 788. Illegal voting

Whoever willfully, being unqualified to vote at an election, votes thereat, shall, even though not challenged, be fined not more than \$500 or imprisoned no more than one year, or both; but such vote shall not invalidate the entire election.
(Added Feb. 20, 1963, No. 936, § 1; amended March 26, 1963, No. 994, § 1(40).)

HISTORY

Source. Former Title 18 V.I.C. § 240.

Amendments-1963. Inserted word "willfully".

§ 789. Voting in false name

Whoever votes or attempts to vote in the name of another person or in any name other than his own, shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 790. Voting more than once

Whoever willfully votes or attempts to vote more than once at the same election, shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 791. Refusal to accept vote; acceptance of illegal vote

Whoever, being an election official, knowingly refuses the vote of a duly registered and qualified elector, or knowingly accepts the vote of a person not registered in accordance with the provisions of this title (except that of an armed forces absentee as provided in chapter 25 of this title, or of a person having an order of the district court), or knowingly receives a vote from a person falsely claiming to be a registered voter, shall be fined not more than \$500 or imprisoned not more than one year, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 792. Undue influence by force

Whoever directly or indirectly uses or threatens to use force, coercion, violence or restraint, or inflicts or threatens to inflict damage, harm, or loss, upon or against any person to induce or compel such person to vote or refrain from voting for any candidate

in any election, shall be fined not more than \$500 or imprisoned not more than one year, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 793. Undue influence by gift of money or valuable thing

Whoever gives or promises to give, or offers any money or valuable thing, to any person with the intent to induce him to vote for or refrain from voting for any candidate at any election, shall be fined not more than \$500 or imprisoned not more than one year, or both.

(Added April 2, 1964, No. 1163, § 25, Sess. L. 1964, p. 170.)

§ 794. Improper disclosure of vote

Whoever, being an election official or any other person, while the polls are open, opens any ballot marked by, or received from, a voter at any election, or marks a ballot by folding or otherwise so as to be able to recognize it, or otherwise attempts to discover, or, having discovered, discloses how, any person has voted, or allows the same to be done by any other person, shall be fined not more than \$500 or imprisoned not more than one year, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 795. Improper change of election documents

Whoever willfully changes or causes to be changed any official election documents, including ballots, tallies, and returns, or attempts to do so, shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 796. Improper delay of election returns

Whoever willfully delays or causes to be delayed any election returns, or attempts to do so, shall be fined not more than \$500 or imprisoned not more than one year, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 797. False count by election officials

Whoever, being an election official, willfully permits or makes or attempts to make any false count of ballots or the election returns, shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 798. Concealment or destruction of ballots or returns by election officials

Whoever, being an election official, willfully conceals, withholds, or destroys any ballot or election returns, or attempts to do so, shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 799. Improper influence of election by election officials

Whoever, being an election official, willfully fails to perform any election duty or knowingly does any unauthorized act with the intent to affect the election or its results, shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 800. Time limitation

No prosecution for any offense defined in this subchapter may be maintained unless it is commenced within one year after the date of the election in connection with which the offense is alleged to have been committed.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

Subchapter IV. Absentee Voting Offenses

HISTORY

Amendments-1972. Title of subchapter amended by Act July 3, 1972, No. 3228, § 9.

§ 831. Offenses defined; penalties

(a) Whoever:

(1) being an official, fails, neglects or refuses to perform the duties required of him by chapter 25 of this title; or

(2) makes a false statement for the purpose of procuring an absentee ballot, or knowingly assists in procuring such a ballot for a person who is not entitled by law to it; or

(3) subscribes to a false statement contained in the affidavit on the envelope containing an absentee ballot; or

(4) solicits or attempts to procure for hire, remuneration or reward, a person to vote by absentee ballot or to make application for such a ballot; or

(5) uses an absentee ballot for any purpose except to vote the same; or

(6) prior to the closing of the polls on election day, shows or exhibits an unsealed absentee ballot to any person other than an official or officer authorized to administer the oath required by section 665 of this title; or

(7) not being entitled to vote as an absentee under chapter 25 of this title, votes or attempts to vote as such an absentee; or

(8) being entitled to vote as an absentee under chapter 25 of this title, knowingly votes or attempts to vote in violation of such chapter; or

(9) knowingly violates a provision of chapter 25 of this title -

shall, for each offense, be fined not more than \$500 or imprisoned not more than one year, or both, and shall be deprived of his voting privileges for a period of five years, commencing from the date of his conviction by the court.

(b) Any court convicting a person of an offense under this section shall forthwith transmit a certificate of such conviction to the board of elections for the legislative district in which such person has his legal voting residence. The board shall retain such certificate with its records.

(Added Feb. 20, 1963, No. 936, § 1; amended July 3, 1972, No. 3228, § 10, Sess. L. 1972, p. 144.)

HISTORY

Source. This subchapter was suggested by New Hampshire law, N.H.R.S.A. 60:1 et seq., and by Vermont law, 17 V.S.A. § 121 et seq.

Amendments-1972. Amended by striking the phrases "armed forces absentee ballot" and "armed forces absentee" wherever appearing and substituting therefor the phrases "absentee ballot" and "absentee" respectively.

Subchapter V. Miscellaneous Offenses

§ 851. False statements; false swearing

Whoever:

(1) With regard to a material matter or thing relating to any subject investigated, heard, or acted upon by any board of elections or member thereof, or by any election officer, clerk, watcher, inspector of registration, court or judge by virtue of this title, willfully makes any false statement under oath or affirmation; or

(2) willfully makes a false affidavit or swears falsely under any oath required or provided for or permitted by this title, or willfully swears or affirms falsely under an oath required or provided for or permitted by this title -

shall be fined not more than \$1,000 or imprisoned not more than three years, or both.
(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 852. Undue influence of election official

Whoever, by force, threat, intimidation, or offers of reward, induces or attempts to induce any election official to fail in his duty, shall be fined not more than \$1,000 or imprisoned not more than three years, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 853. Destruction, removal or alteration of documents or records; unlawful entries

Whoever:

(1) being a member of a board of elections or an employee of such a board, or any other person, unlawfully destroys or attempts to destroy any register, registration card, book, paper, affidavit or other document or record of the board, or unlawfully removes or attempts to remove same from the office of the board; or

(2) inserts, or intentionally permits to be inserted, any name or material entry in any registration card, list, affidavit, petition, subpoena, certificate, report, or other record, authorized or required by this title to be made or prepared by boards of elections for any purpose mentioned in this title, except in accordance with this title; or

(3) except as may be provided in this title, materially alters or destroys any entry which has been duly made in any card or other document or record mentioned in paragraph (2) of this section; or

(4) takes and removes any card or other document or record mentioned in paragraph (2) of this section from the custody of any person having lawful charge thereof in order to prevent the same from being used or inspected or copied as may be provided in this title -
shall be fined not more than \$500 or imprisoned not more than one year, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 854. Neglect or refusal to perform duty

Whoever, being an election official or other person, upon whom a duty is laid by this title, willfully delays, neglects or refuses to perform such duty, shall be fined not more than \$500 or imprisoned not more than one year, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 855. Interfering with, or hindering, person in performance of duty

Whoever intentionally interferes with, hinders, or delays any other person in the performance of any act or duty authorized or imposed by this title shall be fined not more than \$500 or imprisoned not more than one year, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

§ 856. Refusal or failure of police officer to give assistance when demanded; hindering or delaying election officer

Whoever, being a police or peace officer:

(1) refuses or fails, upon demand of any member of a board of elections, or inspector of registration, to render such aid and assistance to him as he shall demand in the maintenance of peace and in the making of arrests without warrants as provided by this title; or

(2) refuses or fails, upon the reasonable demand of an election officer or three qualified electors, as authorized by section 557 of this title, to clear an avenue to the door of the polling place or to preserve or attempt to preserve the peace at the polling place; or

(3) willfully hinders or delays, or attempts to hinder or delay, any election official in the performance of his duty - shall be fined not more than \$500 or imprisoned not more than one year, or both.

(Added Feb. 20, 1963, No. 936, § 1.)

HISTORY

Source. See note under section 741 of this title.

Chapter 29. Disclosure and Limitations on Campaign Contributions

HISTORY

Former chapter 29. Former chapter 29, consisting of §§ 951-953, was derived from Act May 18, 1972, No. 3221, § 1, Sess. L. 1972, p. 85 and was redesignated as Title 2, Chapter 6, consisting of §§ 101-103, by Act Jan. 31, 1973, No. 3660, Sess. L. 1973, p. 3.

SECTION ANALYSIS

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§ 901. Purpose

(a) The Legislature declares that it is the purpose of this chapter to:

(1) require the timely disclosure of contributions to candidates and committees supporting or opposing candidates campaigning for public office;

(2) require the timely disclosure of expenditures by candidates and committees supporting or opposing candidates campaigning for public office; and

(3) limit the amounts which may be contributed to such candidates and committees by individuals, corporations, labor organizations and other committees.

(b) This chapter shall be broadly construed to accomplish the purposes enumerated in this section.

(Added June 10, 1990, No. 5579, § 1, Sess. L. 1990, p. 230.)

HISTORY

Effective date. Act June 10, 1990, No. 5579, § 3, Sess. L. 1990, p. 244, as amended by Act June 29, 1990, No. 5583, Sess. L. 1990, p. 249, provided: "The provisions of Section 1 of this Act [which added sections 901-911 of this title] shall become effective on Jan. 1, 1991."

§ 902. Definitions

As used in this chapter:

(1) "Candidate" means an individual who seeks nomination for election, or election, to any elective office of this Territory, whether or not such individual is elected and

whether or not such individual has formally or publicly announced his candidacy. However, in order to be a "candidate" a person must have:

(A) filed for an elective office with the Board of Elections;

(B) received contributions;

(C) made expenditures; or

(D) authorized another to receive contributions on his behalf or make expenditures in support of his candidacy whether or not a specific office has been named for which the person is running.

(2) "Committee" or "political committee" means any committee, club, association, or other group of persons which receives contributions or makes expenditures during any calendar year in an aggregate amount exceeding \$1,000.

(3) "Contribution" means:

(A) a gift, subscription, loan, advance, or deposit of money or anything of value made for the purpose of influencing the nomination for election, or election, of any person to elective office in this Territory;

(B) a written contract, promise, or agreement, whether or not legally enforceable, to make a contribution as defined in paragraph (3)(A) of this section;

(C) funds received by a political committee which are transferred to such committee from another political committee or other source; or

(D) the payment, by a person other than a candidate or a political committee, of compensation for the personal services of another person which are rendered to such candidate or political committee without charge for the purpose of influencing the nomination for election, or election, of such candidate or for the purpose of assisting such political committee in the purpose for which it was organized.

The term "contribution" does not mean:

(A) the value of services provided without compensation by individuals who volunteer time on behalf of a candidate or political committee;

(B) the use of real or personal property and the cost of invitations, foods, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for political activities;

(C) the sale of any food or beverage by a vendor for use in a candidate's campaign at a charge less than the normal comparable charge, if such charge for use in a candidate's campaign is at least equal to the cost of such food or beverage to the vendor;

(D) any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to a candidate; or

(E) the costs of any get-out-the-vote campaign, or reproduction and distribution of sample ballots.

(4) "Election" means any primary, special, run-off, or general election or any territorial committee meeting, caucus, or convention with the authority to nominate or appoint a person to an elective office.

(5) "Elective office" means every public office in the Territory to which a person can be elected by a vote of the electors under the laws of the United States Virgin Islands.

(6) "Expenditure" means:

(A) a purchase, payment, distribution, loan advance, deposit, or gift of money or anything of value, made for the purpose of influencing the nomination for election, or election, of any person to elective office in this Territory;

(B) a contract, promise, or agreement, express or implied, whether or not legally enforceable, to make any expenditure as defined by paragraph (6)(A) of this section;

(C) the transfer of funds by a political committee to another political committee; or

(D) any repayment made to any bank or other lending institution from which monies were borrowed to finance any aspect of a political campaign.

The term "expenditure" does not mean:

(A) any news story, commentary, or editorial distributed through the facilities of any broadcasting station, newspaper, magazine, or other periodical publication, unless such facilities are owned or controlled by a political party, political committee, or candidate;

(B) any regular monthly, biweekly, weekly or more frequent broadcast by a political party, political committee or candidate which are conducted on a continuous year-round basis for public information purposes and not solely for election campaigning.

(C) nonpartisan activity designed to encourage individuals to vote or to register to vote;

(D) the use of real or personal property and the cost of invitations, food, and beverages, voluntarily provided by an individual to a candidate in rendering voluntary personal services on the individual's residential premises for political activities if the cumulative value of such activities by such individual on behalf of any candidate does not exceed \$250 with respect to any election;

(E) any unreimbursed payment for travel expenses made by an individual who volunteers his personal services to a candidate if the cumulative amount for such individual incurred with respect to such candidate does not exceed \$250 with respect to any election.

(7) "Identification" means the full name and address of any person.

(8) "Independent expenditure" means an expenditure by a person expressly advocating the election or defeat of a candidate which is made without cooperation or consultation with such candidate or any other candidate or any authorized committee or agent of any candidate.

(9) "Multicandidate committee" means a political committee which seeks to influence the nomination for election, or election, of more than one candidate.

(10) "Person" means an individual, partnership, committee, association, corporation, labor organization, or any other organization or group of persons.

(11) "Principal campaign committee" means that political committee designated by a candidate pursuant to section 903(a) of this chapter.

(12) "Recording period" means the term for which information must be filed with the Supervisor as required by this chapter.

(13) "Supervisor" means the Supervisor of Elections as provided by Title 18, section 4, Virgin Islands Code.

(Added June 10, 1990, No. 5579, § 1, Sess. L. 1990, p. 230.)

HISTORY

Revision note. Substituted "paragraph (3)(A) of this section" for "paragraph (A)" in par. (3)(B) and "paragraph (6)(A) of this section" for "paragraph (A)" in par. (6)(B) to conform references to V.I.C. style pursuant to section 14 of Title 1.

Effective date. For effective date of this section, see note set out under section 901 of this title.

§ 903. Political committees; organization; recordkeeping

(a) Each individual who is a candidate for public elected office in the United States Virgin Islands may designate a committee as his principal campaign committee; provided, however, that Territorywide candidates may have a principal campaign committee on each island. No committee shall serve as the principal campaign committee of more than one candidate. No principal campaign committee shall support more than one candidate, except that candidates for Governor and Lieutenant Governor may designate their party's Territorial Committee as their principal committee, which committee may also support all other candidates of that party, or a designated committee may support a candidate for Governor and his running mate for Lieutenant Governor only. Occasional, isolated, or incidental support of a candidate who is not the principal candidate of a designated campaign committee is not prohibited by this chapter.

(b) Every political committee shall have a chairman and a treasurer. No contribution and no expenditure shall be accepted or made by or on behalf of a political committee at a time when there is a vacancy in either office. No expenditure shall be made for or on behalf of a political committee without the authorization of its chairman, or its treasurer, or their designated agents.

(c) Every person who receives a contribution of over \$100 on behalf of a political committee shall, on demand of the treasurer, but not later than five days after the receipt thereof, render to the treasurer a statement including the amount of the contribution, the identification of the person making such contribution, and the date on which it was received. All funds of a political committee shall be segregated from, and may not be commingled with, any personal funds of officers, members, or associates of such committee, or the personal funds of the candidate. No candidate shall receive contributions or make expenditures not subject to the recordkeeping of the committee.

(d) The treasurer of each political committee shall keep a detailed and exact account of:

- (1) all contributions made to or for such committee;
- (2) the identification of every person making a contribution, or aggregate contributions of over \$100;
- (3) all expenditures made by or on behalf of such committee; and
- (4) the identification of every person to whom any expenditure is made, the date and amount thereof, and the name and address of and office sought by each candidate on whose behalf such expenditure was made.

(e) The treasurer of each political committee shall obtain and preserve, for such period of time as is determined necessary by the Supervisor, receipts for expenditures made by or on behalf of the political committee over \$100, and for any such expenditure in a lesser amount if the aggregate amount of such expenditures to the same person during a calendar year exceeds \$100.

(Added June 10, 1990, No. 5579, § 1, Sess. L. 1990, p. 230.)

HISTORY

Effective date. For effective date of this section, see note set out under section 901 of this title.

Applicability. Act June 10, 1990, No. 5579, § 3, Sess. L. 1990, p. 244, as amended by June 29, 1990, No. 5583, Sess. L. 1990, p. 249, provided: "Contributions and/or expenditures either accepted or made on or before December 31, 1990, shall not apply to Sections 903, 904, 905, 906 and 907 of Title 18, Virgin Islands Code [which were added by Act No. 5579, § 1].

§ 904. Political committees; registration

(a) Each political committee which anticipates receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding \$500 shall file with the Supervisor a statement of organization within ten days after its organization or, if later, within ten days after receipt of information causing the committee to anticipate it will receive contributions or make expenditures in excess of \$500. Political committees subject to this section which exist on the date of enactment of this chapter shall file a statement of organization with the Supervisor at a time prescribed by the Supervisor, but not later than 60 days after the date of enactment of this chapter.

(b) The statement of organization required by subsection (a) of this section shall contain:

- (1) the name and address of the committee;
- (2) the names and addresses of affiliated or connected organizations;
- (3) the purpose of the committee;
- (4) the names and addresses of principal officers of the committee and the custodian of books and accounts;
- (5) the name, address, office sought, and party affiliation, if any, of each candidate the committee is supporting or opposing, if the purpose of the committee is to oppose a candidate;
- (6) a statement as to whether the committee is a continuing one;
- (7) the disposition of residual funds which will be made in the event of dissolution;
- (8) a list of all banks, safety deposit boxes, or other repositories used by the committee; and
- (9) such other information which may be required by the Supervisor.

(c) Any change in information previously submitted in a statement of organization shall be reported to the Supervisor not later than thirty days after the change occurs.

(d) Any political committee which has filed a statement of organization and disbands shall notify the Supervisor of such fact.

(Added June 10, 1990, No. 5579, § 1, Sess. L. 1990, p. 230.)

HISTORY

Revision note. In the introductory paragraph of subsec. (b), substituted "subsection (a) of this section" for "subsection (a)" to conform reference to V.I.C. style pursuant to section 14 of Title 1.

Effective date. For effective date of this section, see note set out under section 901 of this title.

Applicability. For application of this section, see note set out under section 903 of this title.

§ 905. Political committees; reports; filing

(a) The treasurer of each political committee required to file a statement of organization pursuant to section 904 shall file reports with the Supervisor disclosing the following information:

- (1) the amount of cash on hand at the beginning of the reporting period;
- (2) the identification of each person who, during the reporting period, contributed over \$100 value to the committee, or whose aggregate contributions totaled over \$100 value, including purchase of tickets for dinners, luncheons, rallies, or similar fund-raising events, and the value amount contributed and the date of the contribution;
- (3) the total sum of contributions made during the reporting period not required to be reported under paragraph (2) of this subsection;
- (4) the amount and terms of each loan of over \$100 made to the committee and/or candidate during the reporting period and identification of any lender, endorser, and guarantor thereof;
- (5) the total amount of proceeds collected during the reporting period from ticket sales, mass collections made at rallies, dinners, or similar fund-raising events, and sales of campaign items such as pins, flags, buttons, badges, hats, banners, and bumper stickers;
- (6) the amount received in cash or check of over \$100, as well as non-monetary items valued at over \$100, not otherwise reported under paragraphs (2) through (5) of this subsection;
- (7) the total sum of all receipts by or for such committee during the reporting period, less transfers between political committees which provide exclusive support to the same candidate as the reporting committee; provided, however, that all transfers to a committee not required to file reports pursuant to this section shall be deemed an expenditure and shall be reported accordingly;
- (8) the identification of each person to whom expenditures of over \$100 have been made during the reporting period, as well as the purpose of each expenditure, the amount, the date made, and the name, address, and office sought of each candidate on whose behalf the expenditure was made;
- (9) the total of all expenditures made during the reporting period not required to be reported under paragraph (8) of this subsection;
- (10) the amount and nature of debts and obligations owed by the committee, and the circumstances and conditions under which such debts and obligations are extinguished and the consideration therefor;
- (11) the accumulated total of receipts and expenditures in all reporting periods for or against a candidate in the upcoming election; and
- (12) such other information as may be required by the Supervisor.

(b) The treasurer of each political committee required to file reports pursuant to subsection (a) of this section shall file a report with the Supervisor:

- (1) not later than ten days after the close of each calendar quarter in which contributions were received or expenditures made in such quarter of over \$500; provided that amounts received or expended in a quarter, not sufficient to be reported in that quarter, shall be cumulative and reported in the next regular reporting period in which the

receipts or expenditures, including the cumulative receipts and expenditures, are \$500 or more; and

(2) not later than the tenth day before the date of an election in which a candidate supported or opposed by the Committee is running. Such report shall be for a reporting period commencing the day after the close of the preceding reporting period and shall close on the thirtieth day preceding the election; and

(3) not later than thirty days after the date of an election in which a candidate supported or opposed by the Committee is running. Such report shall be for a reporting period commencing the day after the close of the preceding reporting period and shall close on the twentieth day after the day of the election. The Supervisor may waive the requirement of paragraph (1) of this subsection for the filing of a quarterly report if a report is required to be filed in that quarter pursuant to paragraphs (2) or (3) of this subsection; provided, however, that if a quarterly report is waived, any period of time in that quarter not included in a report filed pursuant to paragraphs (2) or (3) shall be included in the reporting period of the next regular quarterly filing.

(c) Notwithstanding the provisions of subsection (b) of this section, any candidate or political committee, or any person authorized to receive contributions on behalf of a candidate or political committee, which receives a contribution of \$500 or more after the thirtieth day preceding an election and before the election, shall report such contribution to the Supervisor within 48 hours after its receipt.

(d) Whenever a run-off election is required, the Supervisor may adjust the dates of the reporting period and filing deadlines for reports required by paragraphs (2) and (3) of subsection (b) of this section as may be necessary to insure timely receipt of information. (Added June 10, 1990, No. 5579, § 1, Sess. L. 1990, p. 230.)

HISTORY

Revision note. Substituted "paragraph (8) of this subsection" for "paragraph (8)" in subsec. (a)(9), "subsection (a) of this section" for "subsection (a)" in the introductory paragraph of subsec. (b), "paragraph (1) of this subsection" for "paragraph (1)" and "paragraphs (2) or (3) of this subsection" for "paragraphs (2) or (3)" in the third sentence of subsec. (b)(3) and "subsection (b) of this section" for "subsection (b)" in subsec. (c) to conform references to V.I.C. style pursuant to section 14 of Title 1.

Effective date. For effective date of this section, see note set out under section 901 of this title.

Applicability. For application of this section, see note set out under section 903 of this title.

§ 906. Reports by individuals; filing

(a) Every person, independent of an organized committee, who makes or receives contributions or makes expenditures in an aggregate amount of over \$500 during a calendar year, which contributions and expenditures are for the express purpose of advocating the election or defeat of a candidate, shall file reports with the Supervisor during the reporting periods as required of political committees. Such reports shall contain information as required of political committees by section 905 of this chapter, and a statement, under penalty of perjury, as to whether the person's dependent

expenditure is made in cooperation, consultation, or concert with, or at the request or suggestion of, any candidate with, or any authorized agent or committee of such candidate.

(b) Any independent expenditure by any person not a political committee or candidate of over \$500 or more made after the thirtieth day preceding an election and before the election shall be reported to the Supervisor within 48 hours of the date of the expenditure.

(Added June 10, 1990, No. 5579, § 1, Sess. L. 1990, p. 230.)

HISTORY

Effective date. For effective date of this section, see note set out under section 901 of this title.

Applicability. For application of this section, see note set out under section 903 of this title.

§ 907. Limitations on contributions

(a) No person shall make contributions:

(1) to any candidate or his authorized political committee with respect to any election which, in the aggregate, exceed \$1,000 per election; or

(2) to any multicandidate political committee, for any election, which exceeds an amount equal to the number of candidates supported by such committee when multiplied by \$1,000.

(b) No multicandidate political committee shall make contributions to any candidate or his authorized political committee which, in the aggregate, exceed \$1,000 per election.

(c) All contributions shall be deemed contributions for the immediate next election for the purpose of determining the limitations of this section; however surplus funds carried over by a candidate or political committee from one election to the next shall not be held to be a limitation on the contributions which may be made for such election.

(d) The limitations on contributions contained in this section do not apply to transfers between and among authorized political committees of the same candidate, or to transfers from a candidate to his authorized political committee, or to contributions by a candidate of his personal funds to his own campaign.

(e) For the purpose of the limitations provided by this section, all contributions made by political committees established, financed, maintained, or controlled by any corporation, labor organization, or any other person, including any parent, subsidiary, branch, division, department, or local unit of such corporation, labor organization, or other person, or by any group of such persons, shall be considered to have been made by a single political committee. In any case in which a corporation and any of its subsidiaries, branches, divisions, departments, or local units, or a labor organization and any of its subsidiaries, branches, divisions, departments, or local units establish, finance, maintain, or control more than one separate segregated fund, all such separate segregated funds shall be treated as a single fund for the purposes of the limitations on contributions provided by this section.

(f) Nothing in this section shall be interpreted to prohibit or limit the transfer of funds from one political committee to another when such transfer represents the proportional

share of funds due the receiving committee from a joint fund-raising effort in which such committee participated.

(g) For the purposes of this section:

(1) contributions to a candidate made to any political committee authorized by such candidate to accept contributions on his behalf shall be considered to be contributions made to such candidate;

(2) expenditures made by any person in cooperation, consultation, or concert with, or at the request or suggestion of, a candidate or his authorized political committees or agents, shall be considered to be a contribution to such candidate;

(3) the financing by any person of the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign materials prepared by the candidate, or his authorized political committees or agents, shall be considered to be a contribution to such candidate for the purposes of this section;

(4) contributions made to or for the benefit of any candidate for Lieutenant Governor shall be considered a contribution to the candidate for Governor with whom the candidate for Lieutenant Governor is running; provided, however, that in any primary election, contributions to a candidate for Lieutenant Governor who has not yet aligned with a candidate for Governor shall be deemed contributions solely to the candidate for Lieutenant Governor;

(5) contributions made by a person, either directly or indirectly, on behalf of a particular candidate, including contributions which are in any way earmarked or otherwise directed through an intermediary or conduit to such candidate, shall be treated as contributions from such person to such candidate. The intermediary or conduit shall report the original source and the intended recipient of such contributions to the Supervisor and to the intended recipient.

(Added June 10, 1990, No. 5579, § 1, Sess. L. 1990, p. 230.)

HISTORY

Effective date. For effective date of this section, see note set out under section 901 of this title.

Applicability. For application of this section, see note set out under section 903 of this title.

§ 908. Campaign depositories, petty cash

(a) Each candidate shall designate one or more banks as his campaign depositories. The principal campaign committee of the candidate, and any other political committee authorized by the candidate to receive contributions or to make expenditures on his behalf, shall maintain a single checking account, and such other accounts as the committee determines, at a depository designated by the candidate and shall deposit all contributions received by the committee into the account. No expenditure, other than petty cash expenditures as provided in subsection (c) of this section, may be made by any committee on behalf of a candidate except by check drawn on such account.

(b) The treasurer of each political committee, which is not a political committee authorized by a candidate to receive contributions or to make expenditures on his behalf, shall designate one or more banks as campaign depositories of the committee and shall

maintain a single checking account at one such depository. All contributions received by the committee shall be deposited in the account. No expenditure may be made by the committee except by check drawn on the account, other than petty cash expenditures as provided in subsection (c) of this section.

(c) A political committee may maintain a petty cash fund out of which it may make expenditures not in excess of \$100 to any person in connection with a single purchase or transaction. A record of petty cash disbursements shall be kept in accordance with requirements established by the Supervisor, and the statements and reports thereof shall be furnished to the Supervisor as he may require.

(Added June 10, 1990, No. 5579, § 1, Sess. L. 1990, p. 230.)

HISTORY

Effective date. For effective date of this section, see note set out under section 901 of this title.

§ 909. Administration of chapter

(a) The Supervisor of Elections shall administer the provisions of this chapter. In so doing, the Supervisor shall not be answerable to or subject to the will or control of the Board of Elections.

(b) In administering the provisions of this chapter, the Supervisor shall have the following powers:

(1) to require, by special or general orders any person to submit in writing such reports and answers to questions as the Supervisor may prescribe; and the submissions shall be made within a reasonable period of time and under oath or otherwise as the Supervisor may determine;

(2) to administer oaths or affirmations;

(3) to require by subpoena, signed by the Supervisor, the attendance and testimony of witnesses and the production of all documentary evidence relating to the execution of his duties;

(4) to pay witnesses the same fees and transportation costs as are paid in like circumstances in the Territorial Court.

(5) to initiate, defend, or appeal any civil action for the purpose of enforcing the provisions of this chapter;

(6) to render advisory opinions and promulgate rules and regulations to carry out the provisions of this chapter;

(7) to develop and prescribe forms for statements and reports required to be filed pursuant to this chapter;

(8) to formulate general policy with respect to administering this chapter;

(9) to conduct investigations and hearings expeditiously, to encourage voluntary compliance with this chapter, and to report apparent violations to the Attorney General of the United States Virgin Islands;

(10) to require the reporting of contributions and expenditures in the nature of debts and other contracts, agreements, and promises to make contributions or expenditures;

(11) to hire personnel necessary to execute the provisions of this chapter; and

(12) to take such steps as may be necessary to implement this chapter.

(c) In administering this chapter, it shall be the duty of the Supervisor to:

(1) develop and furnish forms to persons required by this chapter to file reports or statements;

(2) maintain in each island district a conspicuous place for the filing of reports and statements by candidates and committees and persons required to file reports and statements from that district, and to require that candidates for territorial-wide public offices, as well as committees supporting or opposing such candidates, file copies of their reports and statements in each island district;

(3) develop and maintain a filing, coding, and cross-indexing system, prepare indices which set forth, on a candidate-by-candidate basis, all expenditures and contributions for each candidate as reported, and periodically issue such indices on a timely pre-election basis;

(4) make reports and statements filed pursuant to this chapter available for public inspection, commencing as soon as practicable but not later than the end of the second day following the day during which a report or statement was received, and permit the copying of any such report or statement by hand or by duplicating machine for a fee as established by the Supervisor, provided that any information so obtained shall not be utilized for the purpose of soliciting contributions or for any commercial purpose;

(5) preserve reports and statements filed pursuant to this chapter for not less than six years from the date of receipt;

(6) prepare and publish from time to time in the newspapers of general circulation in the United States Virgin Islands the names of candidates not in compliance with this chapter;

(7) make audits and field investigations and conduct hearings to determine compliance with this chapter and the accuracy of reports and statements that are submitted, pursuant to a complaint filed with the Supervisor alleging misrepresentation or falsification of reports or information contained in reports.

(8) report apparent violations of law to the Attorney General of the United States Virgin Islands; and

(9) take such steps as may be necessary to implement the provisions of this chapter.

(Added June 10, 1990, No. 5579, § 1, Sess. L. 1990, p. 230.)

HISTORY

Effective date. For effective date of this section, see note set out under section 901 of this title.

§ 910. Enforcement

(a) Any person who believes a violation of this chapter has occurred may file a complaint with the Supervisor. The complaint shall be in writing, shall be signed and sworn to by the person filing the complaint, and shall be notarized. The Supervisor shall not conduct any investigation solely on the basis of a complaint of a person whose identity is not disclosed to the Supervisor.

(b) Upon receipt of a complaint filed pursuant to subsection (a) of this section, or whenever the Supervisor has reason to believe a violation of this chapter has occurred or is about to occur, the Supervisor shall conduct an investigation. The investigation shall be conducted expeditiously with prompt notice to any person who is the subject of a complaint. The Supervisor shall afford any person who is the subject of a complaint a reasonable opportunity to demonstrate that no action should be taken against such person by the Supervisor.

(c) If the Supervisor determines that there is reasonable cause to believe that a person has committed or is about to commit a violation of this chapter, the Supervisor may endeavor to bring about voluntary compliance by informal methods of conference, conciliation, and persuasion. If the Supervisor is unable to correct or prevent any such violation by informal methods, the Supervisor may institute a civil action for relief, including a permanent or temporary injunction, restraining order, or other appropriate order, including a civil penalty which does not exceed the greater of \$5,000 or an amount equal to twice the amount of any contributions or expenditures involved in such violation, in a court of competent jurisdiction.

(d) Nothing in this section shall be construed to prevent any person aggrieved by another's violation of this chapter from instituting civil proceedings in any court of competent jurisdiction.

(e) The showing that any alleged violation of this chapter is in compliance with any advisory opinion rendered by the Supervisor is a complete defense against an action alleging such violation.

(f) Nothing in this section shall be construed to preclude a civil action for libel or slander by a candidate against any person who files an unsubstantiated or frivolous complaint solely for the purpose of embarrassing the candidate or adversely affecting his campaign.

(g) The Attorney General of the United States Virgin Islands shall assist the Supervisor in enforcing the provisions of this chapter.

(Added June 10, 1990, No. 5579, § 1, Sess. L. 1990, p. 230.)

HISTORY

Effective date. For effective date of this section, see note set out under section 901 of this title.

§ 911. Penalties

Notwithstanding any other penalty limits of this chapter, any person who knowingly and willfully violates any of the provisions of this chapter shall be fined an amount not more than \$5,000 or three times the amount of any contribution or expenditure involved in such violation, whichever is greater, or imprisoned for not more than one year, or both. (Added June 10, 1990, No. 5579, § 1, Sess. L. 1990, p. 230.)

HISTORY

