

Date Printed: 02/05/2009

JTS Box Number: IFES_51
Tab Number: 9
Document Title: VIRGINIA ELECTION LAWS 2001 EDITION
Document Date: 2001
Document Country: USA
Document Language: ENG
IFES ID: EL00651



* 3 4 B 8 4 8 B F - E 2 6 3 - 4 6 8 9 - 8 7 A D - F B 1 3 1 6 7 E D 1 0 0 *

VIRGINIA ELECTION LAWS

2001 EDITION



PUBLISHED BY
STATE BOARD OF ELECTIONS

JAMES S. GILMORE, III
GOVERNOR

VIRGINIA ELECTION LAWS

2001 EDITION

STATE BOARD OF ELECTIONS

Linwood M. Cobb III, *Chairman*
Michael G. Brown, *Vice-Chairman*
Cameron P. Quinn, *Secretary*

Reprinted from the Code of Virginia 1950
and 2001 Cumulative Supplement


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CHARLOTTESVILLE, VIRGINIA

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3440218
papercover edition

3440517
hardbound edition

ISBN 0-327-15136-6



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COMMONWEALTH of VIRGINIA
State Board of Elections

Linwood M. Cobb III
Chairman

Michael G. Brown
Vice Chairman

July 1, 2001

Cameron P. Quinn
Secretary

William G. Atkinson
Deputy Secretary

On behalf of Chairman Linwood M. Cobb III, Vice Chairman Michael G. Brown, and myself, I am pleased to present the 2001 Edition of Title 24.2 of the Code of Virginia, known as the Virginia Election Laws. Article II of the Constitution of Virginia, the basis for Title 24.2 of the Code of Virginia, is also included. In addition, new appendices near the end of this volume list related provisions of state and federal law.

These laws, effective July 1, 2001, are distributed by the State Board of Elections to members of Electoral Boards and General Registrars across the Commonwealth. They also are sent to each of Virginia's nearly 2200 voting precincts to be used by the Officers of Election on Election Day. In addition, the State Board makes this publication available to other citizens interested in the electoral process. Any interested person may obtain one copy of the Virginia Election Laws, free of charge, from the State Board of Elections. If additional copies are needed, they may be purchased from the State Board at \$5.00 per copy.

Virginia elections have been the model for the nation, and the world, thanks to the dedicated General Registrars, Electoral Board members, Officers of Election, and other involved citizens of the Commonwealth.

For specific information on voter registration, elections, or candidate qualifications for elected office in Virginia, please visit our website at www.sbe.state.va.us or write to the State Board of Elections at 200 North Ninth Street, # 101, Richmond, VA 23219. You also may call from the Richmond area, 786-6551, or toll free, 800-552-9745, or send us an e-mail at info@sbe.state.va.us.

Sincerely,

Handwritten signature of Cameron P. Quinn in black ink.

Cameron P. Quinn
Secretary

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Constitution of Virginia [1971]

Article II.

Franchise and Officers.

Sec.

1. Qualifications of voters.
2. Registration of voters.
3. Method of voting.
4. Powers and duties of General Assembly.

Sec.

5. Qualifications to hold elective office.
6. Apportionment.
7. Oath or affirmation.
8. Electoral boards; registrars and officers of election.
9. Privileges of voters during election.

Revision of Constitution. — A general revision of the Constitution of Virginia was proposed and agreed to by the General Assembly at the 1969 Extra Session (Acts 1969, Ex. Sess., c. 27) and referred to the 1970 session. It was again agreed to at that session (Acts 1970, cc. 763, 786) and was ratified by the people on Nov. 3, 1970.

Three other constitutional amendments were ratified by the people at the election held Nov. 3, 1970. The amendment proposed and agreed to by Acts 1969, Ex. Sess., c. 30, and Acts 1970, cc. 763, 787, added subdivision (b) to Art. X,

§ 9. The amendment proposed and agreed to by Acts 1969, Ex. Sess., c. 31, and Acts 1970, cc. 763, 788, added subdivision (c) to Art. X, § 9. The amendment proposed and agreed to by Acts 1969, Ex. Sess., c. 28, and Acts 1970, cc. 763, 789, repealed § 60 of the Constitution of 1902, which prohibited lotteries and the sale of lottery tickets.

Annotations from cases construing the various sections of the Constitution of 1902 have been placed, where appropriate, under similar provisions of the revised Constitution.

ARTICLE II.

FRANCHISE AND OFFICERS.

§ 1. Qualifications of voters. — In elections by the people, the qualifications of voters shall be as follows: Each voter shall be a citizen of the United States, shall be eighteen years of age, shall fulfill the residence requirements set forth in this section, and shall be registered to vote pursuant to this article. No person who has been convicted of a felony shall be qualified to vote unless his civil rights have been restored by the Governor or other appropriate authority. As prescribed by law, no person adjudicated to be mentally incompetent shall be qualified to vote until his competency has been reestablished.

The residence requirements shall be that each voter shall be a resident of the Commonwealth and of the precinct where he votes. Residence, for all purposes of qualification to vote, requires both domicile and a place of abode. The General Assembly may provide for persons who are employed overseas, and their spouses and dependents residing with them, and who are qualified to vote except for relinquishing their place of abode in the Commonwealth while overseas, to vote in the Commonwealth subject to conditions and time limits defined by law. The General Assembly may provide for persons who are qualified to vote except for having moved their residence from one precinct to another within the Commonwealth to continue to vote in a former precinct subject to conditions and time limits defined by law. The General Assembly may also provide, in elections for President and Vice-President of the United States, alternatives to registration for new residents of the Commonwealth.

Any person who will be qualified with respect to age to vote at the next general election shall be permitted to register in advance and also to vote in any intervening primary or special election.

Cross references. — For statutory provisions as to qualification of voters, see §§ 24.2-400 through 24.2-403.

Amendment ratified November 3, 1998.

— An amendment to this section was proposed and agreed to by the General Assembly at the 1997 Regular Session (Acts 1997, c. 767) and was referred to the 1998 Session. It was again agreed to at that session (Acts 1998, cc. 186 and 768) and submitted to the people November 3, 1998, when it was ratified. The amendment, effective January 1, 1999, inserted the third sentence in the second paragraph.

Amendment ratified Nov. 5, 1996.

— An amendment to this section was proposed and agreed to by the General Assembly at the 1995 Regular Session (Acts 1995, c. 705) and was referred to the 1996 Session. It was again agreed to at that Session (Acts 1996, cc. 64 and 907) and submitted to the people November 5, 1996, when it was ratified. The amendment, effective January 1, 1997, in the second paragraph, deleted the former second sentence which read: "A person who is qualified to vote except for having moved his residence from one precinct to another may in the following November general election and in any intervening election vote in the precinct from which he has moved," added the next-to-the-last sentence and inserted "also" preceding "provide" in the last sentence.

Amendment ratified November 7, 1972.

— An amendment to this section was proposed and agreed to by the General Assembly at the 1971 Extra Session (Acts 1971, Ex. Sess., c. 266), and referred to the 1972 Session. It was again agreed to at that session (Acts 1972, cc. 628, 868) and submitted to the people November 7, 1972, when it was ratified. The amendment substituted "eighteen" for "twenty-one" in the first sentence.

Amendment ratified November 2, 1976.

— An amendment to this section was proposed and agreed to by the General Assembly at the 1975 Session (Acts 1975, c. 653), and referred to the 1976 Session. It was again agreed to at that session (Acts 1976, cc. 751, 782) and submitted to the people Nov. 2, 1976, when it was ratified. The amendment substituted "be" for "have been" near the beginning of the first sentence in the second paragraph, deleted "for six months" following "Commonwealth" in that sentence, and "for thirty days" at the end of that sentence, substituted "may in the following November general election and in any intervening election vote" for "fewer than thirty days prior to an election may in any such election vote" near the middle of the second sentence in the second

paragraph, and deleted "a resident requirement of less than six months and" following "United States" in the last sentence of that paragraph.

Defeat of proposed amendment. — An amendment to this section proposed and agreed to by Acts 1981, c. 639 and Acts 1982, cc. 396, 686, and submitted to the people Nov. 2, 1982, was defeated.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970). For survey of constitutional law in Virginia for the year 1975-1976, see 62 Va. L. Rev. 1389 (1976). For comment on rights of the convicted felon on parole, see 13 U. Rich. L. Rev. 367 (1979). For note, "The Clemency Process in Virginia", see 27 U. Rich. L. Rev. 241 (1993).

This section expressly limits the franchise to citizens who have met certain residency requirements. *Harman v. Forssenius*, 380 U.S. 528, 85 S. Ct. 1177, 14 L. Ed. 2d 50 (1965).

Construction with equal protection clause. — This section, disenfranchising all persons "convicted of a felony," unless the Governor or other authority restores their civil rights, comports with the Equal Protection Clause of the Fourteenth Amendment of the U.S. Constitution. *Perry v. Beamer*, 933 F. Supp. 556 (E.D. Va. 1996), aff'd, 99 F.3d 1130 (4th Cir. 1996).

"Residence" equated with "domicile." — As to the right to vote, the term "residence" has been equated with "domicile." *Kegley v. Johnson*, 207 Va. 54, 147 S.E.2d 735 (1966).

Prospective voter must meet dual domiciliary requirements. — In order to be eligible to register to vote under the Constitution and statutes of Virginia, the prospective voter, when his right to register is questioned, has the burden of satisfying the dual domiciliary requirements of presence and intention with respect to the locality in which he seeks to vote. *Kegley v. Johnson*, 207 Va. 54, 147 S.E.2d 735 (1966).

This and the following section relate to qualification of voters and not the conduct of elections. — These sections relate specifically and almost exclusively to the qualifications of the voters, and not, except incidentally, to the conduct of elections. They relate to and prescribe the conditions which must be performed before the time of election in order to qualify a citizen for voting on the day of the election. They are chiefly conditions precedent which cannot be fulfilled on the day of the election. *Moore v. Pullem*, 150 Va. 174, 142 S.E.

415 (1928). See *Goodwin v. Snidow*, 150 Va. 54, 142 S.E. 423 (1928).

But section provides criteria for determining meaning of "qualified voters." — The repeated use of "qualified voters" in the basic law compels resort to and the acceptance of the prerequisites to qualify to vote as specified in this section as the criteria by which the connotation and meaning of "qualified voters" shall be determined when applied to elections ordained by the Constitution and provided for by general law. *Carlisle v. Hassan*, 199 Va. 771, 102 S.E.2d 273 (1958).

An act prescribing the qualification of voters in special and local option elections, insofar as it affected elections not provided for by the Constitution of 1902 and schedule, was held to be a valid exercise of legislative power. *Willis v. Kalmbach*, 109 Va. 475, 64 S.E. 342 (1909).

The state laws passed under the Constitution of 1902, which required one-year residence for voting registration, were constitutionally impermissible and must be declared invalid. *Bufford v. Holton*, 319 F. Supp. 843 (E.D. Va. 1970), *aff'd sub nom. Virginia State Bd. of Elections v. Bufford*, 405 U.S. 1035, 92 S. Ct. 1304, 31 L. Ed. 2d 576 (1972).

Section does not control method of filling vacancies. — This section and Va. Const., Art. I, § 5, govern the election of state officers, including county supervisors, but they do not control the method in which vacancies to these elective offices shall be filled. *Avens v. Wright*, 320 F. Supp. 677 (W.D. Va. 1970).

Constitutionality of disenfranchisement of convicted felons. — The disenfranchisement of convicted felons does not violate the First, Fourteenth, Fifteenth, Nineteenth or Twenty-Fourth Amendments to the United

States Constitution. *Howard v. Gilmore*, No. 99-2285 (4th Cir. Feb. 23, 2000). This is a *per curiam* opinion and is not legal precedent.

Disenfranchisement of convicted felons not contrary to federal statutes. — The disenfranchisement of a convicted felon does not violate the Civil Rights Act of 1964 or the Voting Rights Act of 1965. *Howard v. Gilmore*, No. 99-2285 (4th Cir. Feb. 23, 2000). This is a *per curiam* opinion and is not legal precedent.

Indictment containing word "feloniously" does not deprive one of franchise. — Conviction on an indictment charging a statutory misdemeanor for a second offense of driving an automobile under the influence of intoxicants, where the indictment contained the word "feloniously," did not deprive accused of his elective franchise rights under the Constitution. *Young v. Commonwealth*, 155 Va. 1152, 156 S.E. 565 (1931).

Cancellation of registration upheld. — Although individual presented evidence that he owned a house in Springfield, the evidence was unrefuted that he leased the property to others and did not dwell there. The fact that individual listed the Springfield address on his motor vehicle operator's license, paid personal property tax on his automobile to Fairfax County, and was seeking employment in the Washington, D.C. metropolitan area, did not alter the conclusion that he was not a domiciliary of Fairfax county, because he did not live in that locality with the intent to remain there for an unlimited time. Further, individual did not have a place of abode in Fairfax County. Thus, the trial court did not err in ruling that the registrar properly cancelled individual's voter registration. *Sachs v. Horan*, 252 Va. 247, 475 S.E.2d 276 (1996).

§ 2. Registration of voters. — The General Assembly shall provide by law for the registration of all persons otherwise qualified to vote who have met the residence requirements contained in this article, and shall ensure that the opportunity to register is made available. Registrations accomplished prior to the effective date of this section shall be effective hereunder. The registration records shall not be closed to new or transferred registrations more than thirty days before the election in which they are to be used.

Applications to register shall require the applicant to provide the following information on a standard form: full name; date of birth; residence address; social security number, if any; whether the applicant is presently a United States citizen; and such additional information as may be required by law. All applications to register shall be completed by or at the direction of the applicant and signed by the applicant, unless physically disabled. No fee shall be charged to the applicant incident to an application to register.

Nothing in this article shall preclude the General Assembly from requiring as a prerequisite to registration to vote the ability of the applicant to read and complete in his own handwriting the application to register.

Cross references. — As to who may be registered, see Va. Const., Art. II, § 1 and § 24.2-417. For qualifications of voters generally, see §§ 24.2-400 through 24.2-403. For statutory provisions as to registration of voters, see §§ 24.2-417 et seq.

Amendment ratified Nov. 5, 1996. — An amendment to this section was proposed and agreed to by the General Assembly at the 1995 Regular Session (Acts 1995, c. 705) and was referred to the 1996 Session. It was again agreed to at that Session (Acts 1996, cc. 64 and 907) and submitted to the people November 5, 1996, when it was ratified. The amendment, effective January 1, 1997, in the second paragraph, deleted "including the maiden and any other prior legal name; age" following "full name," deleted "and place" following "date," inserted "residence address" following "of birth," and substituted "and such additional information as may be required by law" for "address and place of abode and date of residence in the precinct; place of any previous registrations to vote; and whether the applicant has ever been adjudicated to be mentally incompetent or convicted of a felony, and if so, under what circumstances the applicant's right to vote has been restored."

Amendment ratified Nov. 2, 1976. — An amendment to this section was proposed and agreed to by the General Assembly at the 1975 Session (Acts 1975, c. 653), and referred to the 1976 Session. It was again agreed to at that session (Acts 1976, cc. 751, 782) and submitted to the people Nov. 2, 1976, when it was ratified. The amendment substituted "date of residence in the precinct; place of any previous registrations" for "length of residence in the Commonwealth and in the precinct; place and time of any previous registrations" near the middle of the second paragraph.

Amendment ratified Nov. 2, 1982. — An amendment to this section was proposed and agreed to by the General Assembly at the 1981 Session (Acts 1981, c. 645) and the 1982 Ses-

sion (Acts 1982, cc. 164, 685) and was ratified by the people at the general election held Nov. 2, 1982. The amendment substituted "and any other prior legal name" for "name of a woman, if married" in the first sentence of the second paragraph and will delete "marital status; occupation;" following "place of birth;" in that sentence.

Amendment ratified Nov. 8, 1994. — An amendment to this section was proposed and agreed to by the General Assembly at the 1993 Session (Acts 1993, c. 891) and the 1994 Session (Acts 1994, cc. 677 and 816), and ratified by the people at the general election held Nov. 8, 1994. The amendment, effective January 1, 1995, in the second paragraph, deleted "under oath" preceding "the following information" in the first sentence, and in the second sentence, deleted "Except as otherwise provided in this Constitution" preceding "All," and deleted "in person before the registrar and" following "shall be completed."

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970). For article, "Voting Rights Act Amendments of 1982: The New Bailout Provision and Virginia," see 69 Va. L. Rev. 765 (1983).

State must comply with privacy act disclosure provisions. — While the State may require an individual to furnish his/her social security number in order to register to vote, it is incumbent on the State to comply with provisions of the Federal Privacy Act of 1974 which require informing the individual whether disclosure of the social security number is mandatory or voluntary, by what statutory or other authority the number is solicited, and what uses will be made of it. *Greidinger v. Davis*, 782 F. Supp. 1106 (E.D. Va. 1992), rev'd on other grounds, 988 F.2d 1344 (4th Cir. 1993).

This section relates to the qualification of voters and not the conduct of elections. *Moore v. Pullem*, 150 Va. 174, 142 S.E. 415 (1928).

§ 3. Method of voting. — In elections by the people, the following safeguards shall be maintained. Voting shall be by ballot or by machines for receiving, recording, and counting votes cast. No ballot or list of candidates upon any voting machine shall bear any distinguishing mark or symbol, other than words identifying political party affiliation; and their form, including the offices to be filled and the listing of candidates or nominees, shall be as uniform as is practicable throughout the Commonwealth or smaller governmental unit in which the election is held.

In elections other than primary elections, provision shall be made whereby votes may be cast for persons other than the listed candidates or nominees. Secrecy in casting votes shall be maintained, except as provision may be made for assistance to handicapped voters, but the ballot box or voting machine shall be kept in public view and shall not be opened, nor the ballots canvassed nor the votes counted, in secret. Votes may be cast in person or by absentee ballot as provided by law.

Cross references. — As to forms of ballots and insertion of names, see §§ 24.2-613 through 24.2-615, 24.2-643, 24.2-644. For statutory provisions concerning items in the next-to-last sentence of this section, see §§ 24.2-624, 24.2-655, 24.2-665, 24.2-667. For provisions concerning voting machines, see §§ 24.2-625 through 24.2-642.

Amendment ratified Nov. 8, 1994. — An amendment to this section was proposed and agreed to by the General Assembly at the 1993 Session (Acts 1993, c. 891) and the 1994 Session (Acts 1994, cc. 677 and 816), and ratified by the people at the general election held Nov. 8, 1994. The amendment, effective January 1, 1995, in the second paragraph, in the second sentence, deleted “only” following “cast,” and substituted “or by absentee ballot as provided by law” for “except as otherwise provided in this article.”

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

There is nothing in this section which

imperatively requires the personal presence of the voter. Moore v. Pullem, 150 Va. 174, 142 S.E. 415 (1928); Goodwin v. Snidow, 150 Va. 54, 142 S.E. 423 (1928).

This section does not undertake to prescribe the form of the ballot in bond referendum elections; that is the province of the legislature. Fairfax County Taxpayers Alliance v. Board of County Supvrs., 202 Va. 462, 117 S.E.2d 753 (1961).

Proceeding under §§ 15-158 through 15-161 [now §§ 15.1-1064 through 15.1-1067] does not violate the Constitution. — In a proceeding under §§ 15-158 through 15-161 [now §§ 15.1-1064 through 15.1-1067], to have that part of the town of Falls Church lying wholly within Arlington County excluded from the corporate limits of the town, it was held that the provisions of the statute invoking the jurisdiction of the court did not constitute an election, in violation of the Constitution. Town of Falls Church v. County Bd., 166 Va. 192, 184 S.E. 459 (1936).

§ 4. Powers and duties of General Assembly. — The General Assembly shall establish a uniform system for permanent registration of voters pursuant to this Constitution, including provisions for appeal by any person denied registration, correction of illegal or fraudulent registrations, penalties for illegal, fraudulent, or false registrations, proper transfer of all registered voters, and cancellation of registrations in other jurisdictions of persons who apply to register to vote in the Commonwealth. The General Assembly shall provide for maintenance of accurate and current registration records and may provide for the cancellation of registrations for such purpose.

The General Assembly shall provide for the nomination of candidates, shall regulate the time, place, manner, conduct, and administration of primary, general, and special elections, and shall have power to make any other law regulating elections not inconsistent with this Constitution.

Cross references. — For statutory provisions concerning the items enumerated in the first sentence of this section, see §§ 24.2-422, 24.2-424 through 24.2-435. For statutory provisions regarding pure elections and election offenses, see §§ 24.2-900 through 24.2-1019.

Amendment ratified Nov. 2, 1976. — An amendment to this section was proposed and agreed to by the General Assembly at the 1975 Session (Acts 1975, c. 653), and referred to the 1976 Session. It was again agreed to at that session (Acts 1976, cc. 751, 782) and submitted to the people Nov. 2, 1976, when it was ratified. The amendment inserted “persons residing temporarily outside of the United States by virtue of their employment” and “and dependents residing with such persons” in the second paragraph.

Amendment ratified Nov. 4, 1986. — An amendment to this section was proposed and agreed to by the General Assembly at the 1985 Session (Acts 1985, c. 591), and again agreed to

at the 1986 Session (Acts 1986, cc. 242, 647) and was ratified by the people at the general election held Nov. 4, 1986. The amendment, added the language “and who fails to return a written response indicating a desire to remain registered at the residence address currently on record in response to a notice of pending cancellation” at the end of the last sentence of the first paragraph.

Amendment ratified Nov. 8, 1994. — An amendment to this section was proposed and agreed to by the General Assembly at the 1993 Session (Acts 1993, c. 891) and the 1994 Session (Acts 1994, cc. 677 and 816), and ratified by the people at the general election held Nov. 8, 1994. The amendment, effective January 1, 1995, in the first paragraph, inserted “penalties for illegal, fraudulent, or false registrations” in the first sentence, and in the second sentence, substituted “may provide” for “shall provide,” inserted “the” preceding “cancellation,” substituted “registrations for such purpose” for “the

registration," and deleted "of any voter who has not voted at least once during four consecutive calendar years and who fails to return a written response indicating a desire to remain registered at the residence address currently on record in response to a notice of pending cancellation" following "registrations for such purpose"; and deleted the former second paragraph

relating to the registration and voting by absentee application and ballot.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary Rev. 333 (1970).

This section confers wide power upon the General Assembly. Moore v. Pullem, 150 Va. 174, 142 S.E. 415 (1928).

§ 5. Qualifications to hold elective office. — The only qualification to hold any office of the Commonwealth or of its governmental units, elective by the people, shall be that a person must have been a resident of the Commonwealth for one year next preceding his election and be qualified to vote for that office, except as otherwise provided in this Constitution, and except that:

(a) the General Assembly may impose more restrictive geographical residence requirements for election of its members, and may permit other governing bodies in the Commonwealth to impose more restrictive geographical residence requirements for election to such governing bodies, but no such requirements shall impair equal representation of the persons entitled to vote;

(b) the General Assembly may provide that residence in a local governmental unit is not required for election to designated elective offices in local governments, other than membership in the local governing body; and

(c) nothing in this Constitution shall limit the power of the General Assembly to prevent conflict of interests, dual officeholding, or other incompatible activities by elective or appointive officials of the Commonwealth or of any political subdivision.

Cross references. — For provisions relating to eligibility, qualifications, etc., for public office, see §§ 2.2-2800 through 2.2-2808.

Amendment ratified Nov. 2, 1976. — An amendment to this section was proposed and agreed to by the General Assembly at the 1975 Session (Acts 1975, c. 653), and referred to the 1976 Session. It was again agreed to at that session (Acts 1976, cc. 751, 782) and submitted to the people Nov. 2, 1976, when it was ratified. The amendment inserted "next preceding his election" near the end of the first paragraph.

History of Section. — See Dean v. Paolicelli, 194 Va. 219, 72 S.E.2d 506 (1952).

Nature of right to be elected to public office. — The right to be elected to public office and the right of incumbency are not natural, absolute and inalienable rights inherent in all individuals. They are rather political privileges, upon which may be imposed reasonable qualifications, conditions and restrictions in the interest of the public. Dean v. Paolicelli, 194 Va. 219, 72 S.E.2d 506 (1952).

Section fixes qualifications for election as distinguished from capacity to hold office. — The qualifications of eligibility to office fixed and stated in this section have to do with, and are limited to, qualifications neces-

sary to be elected as distinguished from the electee's capability and capacity to hold the office. Dean v. Paolicelli, 194 Va. 219, 72 S.E.2d 506 (1952).

Statutes requiring other qualifications are invalid. — Under this section, enactments affixing qualifications to the right to hold office other than those contemplated by it are invalid. Gwaltmey v. Lyons, 116 Va. 872, 84 S.E. 103 (1914); District Rd. Bd. v. Spilman, 117 Va. 201, 84 S.E. 103 (1915).

Statute held not to infringe upon section. — Former section 2.1-30 (see now 2.2-2800), providing that no person shall be capable of holding any office or post in Virginia who holds any office under the United States government, does not infringe upon this section. Dean v. Paolicelli, 194 Va. 219, 72 S.E.2d 506 (1952).

Statute requiring freehold qualification of members of road board is invalid. — A statute which attaches a freehold qualification to members of a road board, for working and keeping in order the roads of a county, contravenes this section, and to that extent is void. Gwaltmey v. Lyons, 116 Va. 872, 84 S.E. 103 (1914); District Rd. Bd. v. Spilman, 117 Va. 201, 84 S.E. 103 (1915).

§ 6. Apportionment. — Members of the House of Representatives of the United States and members of the Senate and of the House of Delegates of the General Assembly shall be elected from electoral districts established by the

General Assembly. Every electoral district shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district. The General Assembly shall reapportion the Commonwealth into electoral districts in accordance with this section in the year 1971 and every ten years thereafter.

Any such reapportionment law shall take effect immediately and not be subject to the limitations contained in Article IV, Section 13, of this Constitution.

Cross references. — For statutory provisions as to congressional districts, see § 24.2-302. For statutory provisions concerning senatorial and house districts, see §§ 24.2-303, 24.2-304.

Proposed amendment not agreed to by General Assembly. — An amendment to this section was proposed and agreed to by the General Assembly at the 1981 Session (Acts 1981, c. 640), and referred to the 1982 Session. At the 1982 Session the General Assembly did not again agree to the amendment.

- I. Congressional Districts.
- II. Senatorial and House of Delegates Districts.

I. CONGRESSIONAL DISTRICTS.

Equality of inhabitants required. — Any plan of districting which is not based upon approximate equality of inhabitants will work inequality in right of suffrage and of power in elections of the representatives in Congress. *Wilkins v. Davis*, 205 Va. 803, 139 S.E.2d 849 (1965).

Mathematical exactness not contemplated. — Mathematical exactness, either in compactness of territory or in equality of population, cannot be attained, nor was it contemplated in the provisions of this section. *Wilkins v. Davis*, 205 Va. 803, 139 S.E.2d 849 (1965).

No small or trivial deviation from equality of population would justify or warrant an application to a court for redress. It must be a grave, palpable and unreasonable deviation from the principles fixed by the Constitution. No exact dividing line can be drawn. *Wilkins v. Davis*, 205 Va. 803, 139 S.E.2d 849 (1965).

Community of interest is not the only requirement, or even one of the requirements spelled out in the Constitution. There must be, as nearly as practicable, an equal number of inhabitants in the districts. *Wilkins v. Davis*, 205 Va. 803, 139 S.E.2d 849 (1965).

This section places limitations on the discretion of the legislature, and whether or not a particular act exceeds those limitations becomes a judicial question when raised by the proper parties in a proper proceeding. See *Brown v. Saunders*, 159 Va. 28, 166 S.E. 105 (1932).

The Apportionment Act of 1952 is in-

Law Review. — For article, "The Virginia Legislative Reapportionment Case: Reapportionment Issues Of The 1980's," see 5 *Geo. Mason L. Rev.* 1 (1982). For note discussing the 1981 redistricting process in Virginia, see 68 *Va. L. Rev.* 541 (1982). For an article, "Redistricting in the Post-2000 Era," see 8 *Geo. Mason L. Rev.* 431 (2000). For an article, "Down For the Count: The Constitutional, Political and Policy Related Problems of Census Sampling," see 8 *Geo. Mason L. Rev.* 477 (2000).

valid. *Wilkins v. Davis*, 205 Va. 803, 139 S.E.2d 849 (1965).

The disparities in population existing in the ten congressional districts of Virginia as constituted by the Redistricting Act of 1952, violate the requirements of this section. *Wilkins v. Davis*, 205 Va. 803, 139 S.E.2d 849 (1965).

II. SENATORIAL AND HOUSE OF DELEGATES DISTRICTS.

Substantially equal representation is required by Fourteenth Amendment. — The equal protection clause of the Fourteenth Amendment to the United States Constitution demands that apportionment accord the citizens of the State substantially equal representation. *Mann v. Davis*, 213 F. Supp. 577 (E.D. Va. 1962), *aff'd*, 377 U.S. 678, 84 S. Ct. 1441, 12 L. Ed. 2d 609 (1964).

State legislative malapportionment, whether resulting from prolonged legislative inaction or from failure to comply sufficiently with federal constitutional requisites, although reapportionment is accomplished periodically, falls equally within the proscription of the equal protection clause of the Fourteenth Amendment to the federal Constitution. *Davis v. Mann*, 377 U.S. 678, 84 S. Ct. 1441, 12 L. Ed. 2d 609 (1964), *aff'd*, 379 U.S. 694, 85 S. Ct. 713, 13 L. Ed. 2d 698 (1965).

The equal protection clause of the United States Constitution requires that a state make an honest and good faith effort to construct districts, in both houses of its legislature, as nearly of equal population as is practicable.

Mahan v. Howell, 410 U.S. 315, 93 S. Ct. 979, 35 L. Ed. 2d 320, modified, 411 U.S. 922, 93 S. Ct. 1475, 36 L. Ed. 2d 316 (1973).

The equal protection clause requires that the seats in both houses of a bicameral state legislature must be apportioned on a population basis. To implement this constitutional requisite, a state must make an honest and good faith effort to construct districts as nearly of equal population as is practicable. Cosner v. Dalton, 522 F. Supp. 350 (E.D. Va. 1981).

More flexibility permissible with respect to state legislative reapportionment. — In the implementation of the basic constitutional principle — equality of population among the districts — more flexibility is constitutionally permissible with respect to state legislative reapportionment than in congressional redistricting. Mahan v. Howell, 410 U.S. 315, 93 S. Ct. 979, 35 L. Ed. 2d 320, modified, 411 U.S. 922, 93 S. Ct. 1475, 36 L. Ed. 2d 316 (1973).

No adequate political remedy to obtain legislature reapportionment appears to exist in Virginia. Davis v. Mann, 377 U.S. 678, 84 S. Ct. 1441, 12 L. Ed. 2d 609 (1964).

In Virginia, population is the overriding consideration in any distribution of representatives. Mann v. Davis, 213 F. Supp. 577 (E.D. Va. 1962), aff'd, 377 U.S. 678, 84 S. Ct. 1441, 12 L. Ed. 2d 609 (1964).

But is not sole measure of justness of apportionment. — While predominant, population is not the sole or definitive measure of districts when taken by the equal protection clause. Compactness and contiguity of the territory, community of interests of the people, observance of natural lines, and conformity to historical divisions, such as county lines, for example, are all to be noticed in assaying the justness of an apportionment. Mann v. Davis, 213 F. Supp. 577 (E.D. Va. 1962), aff'd, 377 U.S. 678, 84 S. Ct. 1441, 12 L. Ed. 2d 609 (1964).

Although population is the predominant consideration, other factors may be of some relevance in assaying the justness of the apportionment. Davis v. Mann, 377 U.S. 678, 84 S. Ct. 1441, 12 L. Ed. 2d 609 (1964), aff'd, 379 U.S. 694, 85 S. Ct. 713, 13 L. Ed. 2d 698 (1965).

And exactitude in population is not demanded by the equal protection clause. But there must be a fair approach to equality unless it be shown that other acceptable factors may make up for the differences in the number of people. Mann v. Davis, 213 F. Supp. 577 (E.D. Va. 1962), aff'd, 377 U.S. 678, 84 S. Ct. 1441, 12 L. Ed. 2d 609 (1964).

So long as the divergences from a strict population standard are based on legitimate considerations incident to the effectuation of a rational state policy, some deviations from the equal-population principle are constitutionally permissible with respect to the apportionment of seats in either or both of the two houses of a

bicameral state legislature. Mahan v. Howell, 410 U.S. 315, 93 S. Ct. 979, 35 L. Ed. 2d 320, modified, 411 U.S. 922, 93 S. Ct. 1475, 36 L. Ed. 2d 316 (1973).

But if inequity on population basis is proven, burden is on defendants to show other factors. — In a suit attacking the legislative apportionment statutes, once the plaintiff had proven the inequity of the allotment of representatives on the basis of population, the burden to adduce evidence of the presence of other factors which might explain this disproportion passed to the defendants. Mann v. Davis, 213 F. Supp. 577 (E.D. Va. 1962), aff'd, 377 U.S. 678, 84 S. Ct. 1441, 12 L. Ed. 2d 609 (1964).

Strict mathematical equality is not imposed on state legislatures by the Constitution. Some deviations from the ideal are permissible if they are based on legitimate considerations incident to the effectuation of a rational state policy. Cosner v. Dalton, 522 F. Supp. 350 (E.D. Va. 1981).

Authoritative construction of "contiguous and compact territory" can only be made by the Supreme Court of Virginia, not federal courts. Cosner v. Robb, 541 F. Supp. 613 (E.D. Va. 1982).

"Compact." — The Supreme Court did not agree with complainants' argument that the word "compact," as used in the term "contiguous and compact territory" in this section, means that a senatorial district must not only be "compact in form," it must also be "compact in content." The use of the words "contiguous and compact," as joint modifiers of the word "territory" in this section, clearly limits their meaning as definitions of spatial restrictions in the composition of electoral districts. Jamerson v. Womack, 244 Va. 506, 423 S.E.2d 180 (1992).

Use of single-member districts to achieve population equality satisfies equal protection. — The proper test for determining whether a state apportionment plan violates the equal protection clause is whether it has a rational basis. The attainment of population equality among single-member districts satisfies this test and establishes the constitutionality of Acts 1982, Sp. Sess., c. 1. Cline v. Robb, 548 F. Supp. 128 (E.D. Va. 1982).

And is within ambit of legislative discretion. — The equal protection clause requires districts of substantially equal population. The United States Supreme Court has approved single-member districts in reapportionment plans devised by district courts. In view of this, it would be anomalous, indeed, to hold that a state legislature cannot choose to reapportion by the use of single-member districts. Therefore, in Acts 1982, Sp. Sess., c. 1, the General Assembly's choice of single-member districts to achieve equality of population was well within the ambit of legislative discretion. Cline v.

Robb, 548 F. Supp. 128 (E.D. Va. 1982).

Federal electoral college scheme does not provide guide. — The fact that the maximum variances in the populations of various state legislative districts are less than the extreme deviations from a population basis in the composition of the federal electoral college fails to provide a constitutionally cognizable basis for sustaining a state apportionment scheme under the equal protection clause of the Fourteenth Amendment to the federal Constitution. *Davis v. Mann*, 377 U.S. 678, 84 S. Ct. 1441, 12 L. Ed. 2d 609 (1964), *aff'd*, 379 U.S. 694, 85 S. Ct. 713, 13 L. Ed. 2d 698 (1965).

In determining the validity of a legislative apportionment there is no difference in status between the senators and delegates in their disposition throughout the State. *Mann v. Davis*, 213 F. Supp. 577 (E.D. Va. 1962), *aff'd*, 377 U.S. 678, 84 S. Ct. 1441, 12 L. Ed. 2d 609 (1964).

Granting representation to political subdivisions as such. — The decision of the General Assembly in former § 24.1-12.1 (see now § 24.2-304 et seq.), to provide representation to subdivisions qua subdivisions in order to implement this section is valid when measured against the equal protection clause of the Fourteenth Amendment. *Mahan v. Howell*, 410 U.S. 315, 93 S. Ct. 979, 35 L. Ed. 2d 320, modified, 411 U.S. 922, 93 S. Ct. 1475, 36 L. Ed. 2d 316 (1973).

The legislature's plan for apportionment of the House of Delegates in former § 24.1-12.1 (see now § 24.2-304 et seq.), may reasonably be said to advance the rational state policy of respecting the boundaries of political subdivisions. *Mahan v. Howell*, 410 U.S. 315, 93 S. Ct. 979, 35 L. Ed. 2d 320, modified, 411 U.S. 922, 93 S. Ct. 1475, 36 L. Ed. 2d 316 (1973).

Fragmentation of political subdivisions to create single-member districts. — A state's choice to maintain the integrity of political subdivisions at the expense of some deviation from the principle of population equality is recognized as legitimate. Reasonable departure from strict mathematical equality is permitted. However, this does not hobble legislative discretion to opt for single-member districts that require the fragmentation of counties and municipalities. Indeed, precedent supports the choice of the General Assembly in Acts 1982, Sp. Sess., c. 1 to reapportion the state into single-member districts that cut across county lines. *Cline v. Robb*, 548 F. Supp. 128 (E.D. Va. 1982).

Combining three senatorial districts into one multimember district. — Where a district court was confronted with plausible evidence of substantial malapportionment with respect to military personnel and the fear that too much delay would have seriously disrupted the fall 1971 elections, the district court did not

abuse its discretion in fashioning the interim remedy of combining the three senatorial districts into one multimember district. *Mahan v. Howell*, 410 U.S. 315, 93 S. Ct. 979, 35 L. Ed. 2d 320, modified, 411 U.S. 922, 93 S. Ct. 1475, 36 L. Ed. 2d 316 (1973).

Deference to legislature's judgment as to communities of interest and geographic isolation. — A federal court must defer to the legislature's judgment about the significance of communities of interest and geographic isolation in the reapportionment process if the state has enacted an otherwise valid reapportionment plan. *Cline v. Robb*, 548 F. Supp. 128 (E.D. Va. 1982).

Reapportionment bill which is limited to certain districts only does not violate this section by denying the opportunity to reapportion other districts as well, where it seeks to correct deficiencies in an earlier reapportionment act which affected all districts in the State, which earlier act afforded delegates and residents of other areas an opportunity to participate in the deliberation and to vote on the composition of all districts, and where all delegates could vote on the joint resolution which limited the scope of the latter reapportionment bill. *Cosner v. Robb*, 541 F. Supp. 613 (E.D. Va. 1982).

1962 apportionment statutes held unconstitutional. — Former §§ 24-12 and 24-14, as amended in 1962, represented an unconstitutional, invidious discrimination adverse to Arlington, Fairfax and Norfolk, hence they were annulled and declared invalid. *Mann v. Davis*, 213 F. Supp. 577 (E.D. Va. 1962), *aff'd*, 377 U.S. 678, 84 S. Ct. 1441, 12 L. Ed. 2d 609 (1964).

1981 apportionment statute unconstitutional. — Former § 24.1-12.2, as amended by Acts 1981, Sp. Sess., c. 12, which reapportioned the electoral districts for the House of Delegates, and which included deviations among populations ranging from 22.13% to 27.72%, was facially unconstitutional because the deviation among the populations of the districts that it created exceeded the limits tolerated by the equal protection clause. *Cosner v. Dalton*, 522 F. Supp. 350 (E.D. Va. 1981).

In addition to its facial invalidity, former § 24.1-12.2 as amended by Acts 1981, Sp. Sess., c. 12 violated the equal protection clause and the Virginia Constitution because the State's announced policies either did not necessitate, or were not adequate to justify, the act's population variances. *Cosner v. Dalton*, 522 F. Supp. 350 (E.D. Va. 1981).

But not on the basis of racial discrimination. *Cosner v. Dalton*, 522 F. Supp. 350 (E.D. Va. 1981).

And could be continued in effect for November election. — Former § 24.1-12.2, as amended by Acts 1981, Sp. Sess., c. 12, while

unconstitutional, could be continued in effect for the November election since necessary election machinery was already in progress. *Cosner v. Dalton*, 522 F. Supp. 350 (E.D. Va. 1981).

Acts 1982, Sp. Sess., c. 1 does not violate equal protection clause of the Fourteenth Amendment. *Cline v. Robb*, 548 F. Supp. 128 (E.D. Va. 1982).

The 1991 Reapportionment Act did not violate compactness requirements. — Chancellor did not err in holding that the General Assembly's 1991 Reapportionment Act (the 1991 plan) did not violate the compactness requirements of this section in fixing the boundary lines of the 15th and 18th Senatorial Electoral Districts. *Jamerson v. Womack*, 244 Va. 506, 423 S.E.2d 180 (1992).

Annexation statute which provides for

changes in voting districts not invalid. — The statute under which portions of the Counties of Fairfax and Alexandria were annexed to the city of Alexandria was not in conflict with this section, although such annexation changed the voting districts of persons residing in the annexed territory. *City Council v. Alexandria County*, 117 Va. 230, 84 S.E. 630 (1915).

Effect of omission of Norfolk-based naval personnel from census. — The General Assembly's reliance on 1980 census figures omitting approximately 9,000 Norfolk-based naval personnel from Virginia's population in enacting former § 24.1-12.2, as amended by Acts 1981, Sp. Sess., c. 12, did not deny a member of the House of Delegates from Norfolk equal protection of the laws. *Cosner v. Dalton*, 522 F. Supp. 350 (E.D. Va. 1981).

§ 7. Oath or affirmation. — All officers elected or appointed under or pursuant to this Constitution shall, before they enter on the performance of their public duties, severally take and subscribe the following oath or affirmation:

"I do solemnly swear (or affirm) that I will support the Constitution of the United States, and the Constitution of the Commonwealth of Virginia, and that I will faithfully and impartially discharge all the duties incumbent upon me as, according to the best of my ability (so help me God)."

Cross references. — For statutory provision as to form of general oath, see § 49-1.

§ 8. Electoral boards; registrars and officers of election. — There shall be in each county and city an electoral board composed of three members, selected as provided by law. In the appointment of the electoral boards, representation, as far as practicable, shall be given to each of the two political parties which, at the general election next preceding their appointment, cast the highest and the next highest number of votes. The present members of such boards shall continue in office until the expiration of their respective terms; thereafter their successors shall be appointed for the term of three years. Any vacancy occurring in any board shall be filled by the same authority for the unexpired term.

Each electoral board shall appoint the officers of election and general registrar for its county or city. In appointing such officers of election, representation, as far as practicable, shall be given to each of the two political parties which, at the general election next preceding their appointment, cast the highest and next highest number of votes.

No person, nor the deputy of any person, who is employed by or holds any office or post of profit or emolument, or who holds any elective office of profit or trust, under the governments of the United States, the Commonwealth, or any county, city, or town, shall be appointed a member of the electoral board or general registrar. No person, nor the deputy or the employee of any person, who holds any elective office of profit or trust under the government of the United States, the Commonwealth, or any county, city, or town of the Commonwealth, shall be appointed an assistant registrar or officer of election.

Cross references. — For statutory provisions relating to local electoral boards, see §§ 15.1-998 and 24.2-106 through 24.2-109.

For statutory provisions relating to State Board of Elections, see §§ 24.2-102 through 24.2-105. **Amendment ratified Nov. 4, 1986.** — An

amendment to this section was proposed and agreed to by the General Assembly at the 1985 Session (Acts 1985, c. 591), and again agreed to at the 1986 Session (Acts 1986, cc. 242, 647) and was ratified by the people at the general election held Nov. 4, 1986. The amendment substituted "officers of election and general registrar" for "officers and registrars of election" in the first sentence of the second paragraph, substituted "or general registrar" for "or registrar or officer of election" at the end of the first sentence of the last paragraph, and added a second sentence to the last paragraph, reading, "No person, nor the deputy or the employee of any person, who holds any elective office of profit or trust under the government of the United States, the Commonwealth, or any county, city, or town of the Commonwealth, shall be appointed an assistant registrar or officer of election."

Defeat of proposed amendment. — An

amendment to this section proposed and agreed to by Acts 1975, c. 653, and Acts 1976, cc. 751, 782, and submitted to the people Nov. 2, 1976, was defeated.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

Number of members accorded to each party discretionary. — Representation means that each of the political parties so designated shall have at least one representative on the electoral board, but since the electoral board shall be "composed of three members," it follows that this section leaves it discretionary with the appointing authority as to the number of members to be accorded each political party. *Dovel v. Bertram*, 184 Va. 19, 34 S.E.2d 369 (1945).

And mandamus does not lie to control this discretionary power. *Dovel v. Bertram*, 184 Va. 19, 34 S.E.2d 369 (1945).

§ 9. Privileges of voters during election. — No voter, during the time of holding any election at which he is entitled to vote, shall be compelled to perform military service, except in time of war or public danger, nor to attend any court as suitor, juror, or witness; nor shall any such voter be subject to arrest under any civil process during his attendance at election or in going to or returning therefrom.

Code of Virginia

Title 24.2.

Elections.

- Chap.** 1. General Provisions and Administration, §§ 24.2-100 through 24.2-123.
2. Federal, Commonwealth, and Local Officers, §§ 24.2-200 through 24.2-238.
3. Election Districts, Precincts, and Polling Places, §§ 24.2-300 through 24.2-312.
4. Voter Registration, §§ 24.2-400 through 24.2-447.
5. Candidates for Office, §§ 24.2-500 through 24.2-545.
6. The Election, §§ 24.2-600 through 24.2-687.
7. Absentee Voting, §§ 24.2-700 through 24.2-713.
8. Recounts and Contested Elections, §§ 24.2-800 through 24.2-814.
9. Campaign Finance Disclosure Act, §§ 24.2-900 through 24.2-930.
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CHAPTER 1.

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ARTICLE 1.

Applicability; Definitions.

§ 24.2-100. Applicability of title. — The provisions of this title shall apply to all elections held in this Commonwealth except as is otherwise provided by general law. (Code 1950, § 24-176; 1970, c. 462, § 24.1-95; 1980, c. 639; 1993, c. 641.)

Cross references. — For power of General Assembly to enact laws to regulate elections, see Va. Const., Art. II, § 4. As to public bodies and records to the Virginia Freedom of Information Act is inapplicable, see § 2.2-3703.

Editor's note. — At its regular session of 1991, the General Assembly directed the Code Commission to make a study of the laws governing elections in the Commonwealth. In January of 1993, the Commission sent to the Governor and General Assembly its report containing a proposed revision of Title 24.1, Elections. This report, which was published as Senate Document No. 25 of the 1993 session, contains reviser's notes and other explanatory matter which, while valuable, are too lengthy for inclusion here. The Commission's draft of the revision of Title 24.1, as amended by the General Assembly, became c. 641 of the Acts of 1993. Effective December 1, 1993, it repealed Title 24.1 and enacted in lieu thereof a new Title 24.2.

In addition to its revision by c. 641, former Title 24.1 was amended by certain other acts passed at the 1993 session. As required by § 9-77.11, the Code Commission has incorporated these amendments into new Title 24.2.

Many of the cases cited in the notes under sections of this title were decided under corresponding provisions of former Title 24.1 and earlier statutes.

Acts 1993, c. 641, cl. 2 provides: "That whenever any of the conditions, requirements, provisions or contents of any section or chapter of Title 24.1 or any other title of the Code of Virginia as such titles existed prior to December 1, 1993, are transferred in the same or modified form to a new section or chapter of

Title 24.2 or any other title of the Code and whenever any such former section or chapter is given a new number in Title 24.2 or any other title, all references to any such former section or chapter of Title 24.1 or other title appearing in this Code shall be construed to apply to the new or renumbered section or chapter containing such conditions, requirements, provisions, contents or portions thereof."

Acts 1993, c. 641, cl. 3 provides: "That the rules and regulations of the State Board of Elections in effect on the effective date of this act shall continue in effect to the extent that they are not in conflict with this act and shall be deemed to be regulations promulgated under this act."

Acts 1993, c. 641, cl. 4 provides: "That this recodification of Title 24.1 as Title 24.2 shall not be construed to require the reappointment of any officer or any member of a board, council, committee or other appointed body referred to in Title 24.2, and each such officer and member shall continue to serve for the term for which appointed pursuant to the provisions of Title 24.1."

Acts 1993, c. 641, cl. 5 provides: "That this recodification of Title 24.1 as Title 24.2, including the repeal of § 24.1-90.2, shall not be construed to affect the term of office of any elected officeholder holding office on December 1, 1993."

Acts 1993, c. 641, cl. 6 provides: "That the provisions of § 9-77.11 of the Code of Virginia shall apply to the codification of Title 24.2 so as to give effect to other laws enacted at the 1993 Session of the General Assembly notwithstanding the delay in the effective date of this act."

Law Review. — For a symposium, "The Law

and Economics of Elections," see 85 Va. L. Rev. 1533 (1999). For an article, "The Law and Economics of 'Informed Voter' Ballot Notations," see 85 Va. L. Rev. 1533 (1999). For a commentary, "Garrett's Temptation," see 85 Va. L. Rev. 1589 (1999). For a commentary, "The Theory of Political Competition," see 85 Va. L. Rev. 1605 (1999). For an article, "Governing Through Intermediaries," see 85 Va. L. Rev. 1627 (1999). For a commentary, "Pluralism With a Corporate Face: A Comment On Issacharoff and Ortiz," see 85 Va. L. Rev. 1671 (1999). For a commentary, "Political Parties as Donative Intermediaries," see 85 Va. L. Rev. 1683 (1999). For an article, "Politics By Other Means," see 85 Va. L. Rev. 1697 (1999). For a commentary, "It's Not Just Talk," see 85 Va. L. Rev. 1725 (1999). For a commentary, "Market Failures and Failures of Markets," see 85 Va. L. Rev. 1745 (1999). For an article, "The Issue of Issue Advocacy: An Economic, Political, and Constitutional Analysis," see 85 Va. L. Rev.

1761 (1999). For a commentary, "Taking Issue With Issue Advocacy," see 85 Va. L. Rev. 1793 (1999). For a commentary, "On the Issue of Issue Advocacy," see 85 Va. L. Rev. 1803 (1999). For an article, "Redistricting in the Post-2000 Era," see 8 Geo. Mason L. Rev. 431 (2000). For an article, "Down For the Count: The Constitutional, Political and Policy Related Problems of Census Sampling," see 8 Geo. Mason L. Rev. 477 (2000).

Where a suit attempted to mount a collateral attack on state court judgments, which the federal district court lacked jurisdiction to hear, and, further, assumed that the Virginia courts would not follow the Constitution, an assumption that raised issues not yet ripe for decision, such claims would be dismissed for lack of subject matter and supplemental jurisdiction, respectively. *Jordahl v. Democratic Party*, 947 F. Supp. 236 (W.D. Va. 1996), *aff'd*, 122 F.3d 192 (4th Cir. 1997).

§ 24.2-101. **Definitions.** — As used in this title, unless the context requires a different meaning:

"*Candidate*" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. "Candidate" shall include a person who seeks the nomination of a political party or who, by reason of receiving the nomination of a political party for election to an office, is referred to as its nominee. For the purposes of Chapters 8 (§ 24.2-800 et seq.) and 9 (§ 24.2-900 et seq.) of this title, "candidate" shall include any write-in candidate. However, no write-in candidate who has received less than fifteen percent of the votes cast for the office shall be eligible to initiate an election contest pursuant to Article 2 (§ 24.2-803 et seq.) of Chapter 8 of this title.

"*Central absentee voter precinct*" means a precinct established by a county or city pursuant to § 24.2-712 for the processing of absentee ballots for the county or city or any combination of precincts within the county or city.

"*Constitutional office*" or "*constitutional officer*" means a county or city office or officer referred to in Article VII, Section 4 of the Constitution of Virginia: clerk of the circuit court, attorney for the Commonwealth, sheriff, commissioner of the revenue, and treasurer.

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

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

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

"*General election*" means an election held in the Commonwealth on the Tuesday after the first Monday in November or on the first Tuesday in May for the purpose of filling offices regularly scheduled by law to be filled at those times.

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

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

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

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

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

"Qualified voter" means a person who is entitled to vote pursuant to the Constitution of Virginia and who is (i) eighteen years of age, (ii) a resident of the Commonwealth and of the precinct in which he offers to vote, and (iii) registered to vote. No person who has been convicted of a felony shall be a qualified voter unless his civil rights have been restored by the Governor or other appropriate authority. No person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as provided by law.

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

"Referendum" means any election held pursuant to law to submit a question to the voters for approval or rejection.

"Registered voter" means any person who is maintained on the Virginia voter registration system. All registered voters shall be maintained on the Virginia voter registration system with active status unless assigned to inactive status by a general registrar in accordance with Chapter 4 (§ 24.2-400 et seq.) of this title. For purposes of applying the precinct size requirements of § 24.2-307, calculating election machine requirements pursuant to Article 3 (§ 24.2-625 et seq.) of Chapter 6 of this title, mailing notices of local election district, precinct or polling place changes as required by subdivision 11 of § 24.2-114 and § 24.2-306, and determining the number of signatures required for candidate and voter petitions, "registered voter" shall include only persons maintained on the Virginia voter registration system with active status.

"Registration records" means all official records concerning the registration of qualified voters and shall include all records, lists, and files, whether maintained in books, on cards, on automated data bases, or by any other legally permitted record-keeping method.

"Residence" or *"resident,"* for all purposes of qualification to register and vote, means and requires both domicile and a place of abode. In determining domicile, consideration may be given to a person's expressed intent, conduct, and all attendant circumstances including, but not limited to, financial independence, business pursuits, employment, income sources, residence for income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real property owned by the person, motor vehicle and other personal property registration, and other factors reasonably necessary to determine the qualification of a person to register or vote.

"Special election" means any election which is held pursuant to law to fill a vacancy in office or to hold a referendum.

"State Board" or *"Board"* means the State Board of Elections.

"Virginia voter registration system" or *"voter registration system"* means the automated central record-keeping system for all voters registered within the Commonwealth which is maintained as provided in Article 2 (§ 24.2-404 et seq.) of Chapter 4 of this title. (Code 1950, §§ 24-17, 24-18, 24-18.2, 24-22,

24-23, 24-44, 24-136, 24-137, 24-172, 24-346; 1956, c. 378; 1963, Ex. Sess., c. 2; 1964, c. 592; 1970, c. 462, §§ 24.1-1, 24.1-41, 24.1-42, 24.1-93; 1971, Ex. Sess., cc. 119, 205, 265; 1972, c. 620; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1977, cc. 30, 490; 1978, c. 778; 1982, c. 650; 1983, c. 461; 1989, c. 322; 1991, 1st Sp. Sess., c. 12; 1993, c. 641; 1996, cc. 72, 73; 1997, c. 801; 1998, c. 866; 2001, c. 719.)

Cross references. — For constitutional provision as to free elections, see Va. Const., Art. I, § 6. As to prohibition of religious tests, see Va. Const., Art. I, § 16. For constitutional provisions as to persons excluded from registering and voting, see Va. Const., Art. II, § 1. As to eligibility to vote as a qualification to hold elective office, see Va. Const., Art. II, § 5. As to eligibility to vote as qualification of senators and delegates, see Va. Const., Art. IV, § 4. As to the prohibition against the chairmen or any full-time paid employees of a state political party working as lobbyists, see § 2.2-435.

The 2001 amendments. — The 2001 amendment by c. 719 inserted "mailing notices of local election district, precinct or polling place changes as required by subdivision 11 of § 24.2-114 and § 24.2-306" in the paragraph defining "Registered voter."

Law Review. — For 1995 survey of campaign and election law, see 29 U. Rich. L. Rev. 859 (1995).

Constitutionality of disenfranchisement

of convicted felons. — The disenfranchisement of convicted felons does not violate the First, Fourteenth, Fifteenth, Nineteenth or Twenty-Fourth Amendments to the United States Constitution. *Howard v. Gilmore*, No. 99-2285 (4th Cir. Feb. 23, 2000).

Disenfranchisement of convicted felons not contrary to federal statutes. — The disenfranchisement of a convicted felon does not violate the Civil Rights Act of 1964 or the Voting Rights Act of 1965. *Howard v. Gilmore*, No. 99-2285 (4th Cir. Feb. 23, 2000). This is a per curiam opinion and is not legal precedent.

Convicted felon must take affirmative action to restore rights. — A convicted felon in Virginia retains the civil disabilities resulting from his conviction until he himself takes affirmative action to have his civil rights restored. *Almond v. United States*, 854 F. Supp. 439 (W.D. Va. 1994) (decision under former § 24.1-42).

Applied in *Edmonds v. Gilmore*, 988 F. Supp. 948 (E.D. Va. 1997).

ARTICLE 2.

State Board of Elections.

§ 24.2-102. Appointment; terms; Secretary. — The State Board of Elections is continued and shall consist of three members appointed by the Governor from the qualified voters of the Commonwealth, subject to confirmation by the General Assembly. In the appointment of the Board, representation shall be given to each of the political parties having the highest and next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election. Two Board members shall be of the political party which cast the highest number of votes for Governor at that election. When the Governor was not elected as the candidate of a political party, representation shall be given to each of the political parties having the highest and next highest number of members of the General Assembly at the time of the appointment and two Board members shall be of the political party having the highest number of members in the General Assembly. Each political party entitled to an appointment may make and file recommendations with the Governor for the appointment. Its recommendations shall contain the names of at least three qualified voters of the Commonwealth.

Board members shall serve four-year terms beginning February 1, 1995, and each fourth year thereafter. Vacancies shall be filled for the unexpired terms. No member, except the Secretary, shall be eligible for more than two successive four-year terms. A member appointed for an unexpired term may be appointed for the two succeeding four-year terms.

The Governor shall designate one member of the Board as the Secretary, who shall receive the salary fixed by law. The Secretary may employ the personnel required to carry out the duties imposed by this title. The provisions of § 2.2-106 shall not apply to this section. (Code 1950, §§ 24-24, 24-345.10;

1952, c. 509; 1956, c. 392; 1970, c. 462, § 24.1-18; 1973, c. 30; 1975, c. 515; 1977, c. 576; 1980, c. 728; 1984, c. 444; 1993, c. 641.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-103. Powers and duties in general. — The State Board shall supervise and coordinate the work of the county and city electoral boards and of the registrars to obtain uniformity in their practices and proceedings and legality and purity in all elections. It shall make rules and regulations and issue instructions and provide information to the electoral boards and registrars to promote the proper administration of election laws. Electoral boards and registrars shall provide information requested by the Board.

The Board shall ensure that the members of the electoral boards and general registrars are properly trained to carry out their duties by offering training annually, or more often, as it deems appropriate.

The Board may institute proceedings for the removal of any member of an electoral board or other election official who fails to discharge the duties of his office in accordance with law. The Board may remove from office, on notice, any registrar who fails to discharge the duties of his office according to law.

The Board may petition a circuit court or the Supreme Court, whichever is appropriate, for a writ of mandamus or prohibition, or other available legal relief, for the purpose of ensuring that elections are conducted as provided by law.

The Board shall adopt a seal for its use and bylaws for its own proceedings. (Code 1950, §§ 24-24, 24-25, 24-345.10, 24-345.11; 1952, c. 509; 1956, c. 392; 1970, c. 462, §§ 24.1-18, 24.1-19; 1973, c. 30; 1975, c. 515; 1977, c. 576; 1980, c. 728; 1984, c. 444; 1993, c. 641; 1999, c. 861.)

The 1999 amendment added the present second paragraph.

Editor's note. — Acts 2000, c. 886, cl. 1 and 2 provide:

"1. § 1. The provisions of this act shall apply to the November 6, 2001, elections for members of the House Of Delegates of Virginia, for constitutional officers, for members of county governing bodies, and for members of county school board.

"§ 2. The State Board of Elections shall be authorized to reschedule the June 12, 2001, primary date for these offices to any Tuesday after June 12, 2001, and not later than September 11, 2001, if it appears that the necessary 2001 reapportionment or redistricting will not be completed, and preclearance from the appropriate United States authority under § 5 of the United States Voting Rights Act of 1965 will not be received in time for those primaries to be held on June 12, 2001.

"§ 3. The new primary date set by the State Board of Elections shall not be less than thirty

days after the Board votes, in open meeting, to set such new date. The State Board of Elections may vote, no later than May 12, 2001, to postpone the June 12, 2001, primary for these offices without deciding a new date. Any meeting called for the purpose of postponing the primary date or setting a new primary date may not be called with less than seven days' notice to the public and the interested parties. The State Board of Elections shall, at the same time that it sets the new primary date, approve a revised schedule of filing dates for such primary and specify which previously filed documents shall continue to be acceptable despite their referencing the June 12, 2001, primary date.

"§ 4. If the primary is held later than August 1, 2001, ballots for the November 2001 election shall be printed on or before Friday, October 5, 2001, or as soon thereafter as practicable, notwithstanding § 24.2-612.

"2. That the provisions of this act shall expire on January 1, 2002."

§ 24.2-104. Requesting assistance for attorney for the Commonwealth; investigative committees. — When the State Board is of the opinion that the public interest will be served, it may request the Attorney General, or other attorney designated by the Governor for the purpose, to

assist the attorney for the Commonwealth of any jurisdiction in which election laws have been violated. The Attorney General, or the other attorney designated by the Governor, shall have full authority to do whatever is necessary or appropriate to enforce the election laws or prosecute violations thereof.

The attorney for the Commonwealth or a member of the electoral board of any county or city may make a request, in writing, that the Attorney General appoint a committee to make an immediate investigation of the election practices in that city or county, accompanied by a statement under oath that substantial violations of this title have allegedly occurred which may alter or have altered the outcome of an election. On receipt of the request and statement, the Attorney General shall forthwith appoint a committee of two or more persons qualified to make the investigation. Members, officers, and employees of the Board, local electoral boards, and registrars' offices shall not serve on the committee but may provide assistance to the committee.

The Attorney General shall direct the committee to observe, investigate or supervise the election if supervision appears necessary. The committee shall make a preliminary report to the Attorney General within five days of its appointment. If its report shows that violations of this title have occurred, the Attorney General may, notwithstanding any other provision of law, authorize the prosecution of those responsible for the violations. (Code 1950, § 24-27; 1970, c. 462, § 24.1-21; 1989, c. 111; 1993, c. 641.)

Cross references. — As to the Attorney General's limited authority to institute and conduct criminal prosecutions in the circuit courts of the Commonwealth, see § 2.2-511.

§ 24.2-105. Prescribing various forms. — The State Board shall prescribe appropriate forms and records for the registration of voters, conduct of elections, and implementation of this title, which shall be used throughout the Commonwealth. (Code 1950, § 24-28; 1968, c. 97; 1970, c. 462, § 24.1-22; 1971, Ex. Sess., c. 247; 1975, c. 515; 1977, c. 490; 1993, c. 641.)

§ 24.2-105.1. Election information on the Internet. — Beginning with the general election in November 1998, the State Board shall implement a system by which it shall furnish lists of candidates for all elections in the Commonwealth, and information on proposed constitutional amendments and statewide referenda prepared pursuant to §§ 30-19.9 and 30-19.10, electronically through the global information system known as the Internet. The Board may list other referenda issues on the Internet. The lists and information shall be made available on the Internet as far in advance of the election as practicable and remain available on the Internet at least until the day after the election. (1998, c. 478.)

Law Review. — For an article, "Technology and the Law," see 32 U. Rich. L. Rev. 1383 (1998).

§ 24.2-105.2. Acceptance of payments by credit card or debit card. — The Secretary of the State Board may accept payment of charges due for voter lists, copies, fines or fees, by use of credit card or debit card. Any credit or debit card used to pay for any voter list must be in the name of a person or organization authorized to receive such list pursuant to § 24.2-405. (2000, cc. 510, 554.)

ARTICLE 3.

Local Electoral Boards.

§ 24.2-106. Appointment and terms; vacancies; chairman and secretary; certain prohibitions. — There shall be in each county and city an electoral board composed of three members who shall be appointed by a majority of the circuit judges of the judicial circuit for the county or city. If a majority of the judges cannot agree, the senior judge shall make the appointment. Any vacancy occurring on a board shall be filled by the same authority for the unexpired term. The clerk of the circuit court shall send to the State Board a copy of each order making an appointment to an electoral board.

In the appointment of the electoral board, representation shall be given to each of the two political parties having the highest and next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election. Two electoral board members shall be of the political party which cast the highest number of votes for Governor at that election. When the Governor was not elected as the candidate of a political party, representation shall be given to each of the political parties having the highest and next highest number of members of the General Assembly at the time of the appointment and two board members shall be of the political party having the highest number of members in the General Assembly. The political party entitled to the appointment shall make and file recommendations with the judges for the appointment not later than January 15 of the year of an appointment to a full term or, in the case of an appointment to fill a vacancy, within thirty days of the date of death or notice of resignation of the member being replaced. Its recommendations shall contain the names of at least three qualified voters of the county or city for each appointment. The judges shall promptly make such appointment (i) after receipt of the political party's recommendation or (ii) after January 15 for a full term or after the thirty-day period expires for a vacancy appointment, whichever of the events described in clause (i) or (ii) first occurs.

The circuit judges of the judicial circuit for the county or city shall not appoint to the electoral board (i) any person who is the spouse of an electoral board member or the general registrar for the county or city or (ii) any person, or the spouse of any person, who is the parent, grandparent, sibling, child, or grandchild of an electoral board member or the general registrar of the county or city.

Electoral board members shall serve three-year terms and be appointed to staggered terms, one term to expire at midnight on the last day of February each year. No three-year term shall be shortened to comply with the political party representation requirements of this section.

The board shall elect one of its members as chairman and another as secretary. The chairman and the secretary shall represent different political parties, unless the representative of the second-ranked political party declines in writing to accept the unfilled office.

The secretary of the electoral board shall immediately notify the State Board of any change in the membership or officers of the electoral board and shall keep the Board informed of the name, residence and mailing addresses, and home and business telephone numbers of each electoral board member.

No member of an electoral board shall be eligible to offer for or hold an office to be filled in whole or in part by qualified voters of his jurisdiction. If a member resigns to offer for or hold such office, the vacancy shall be filled as provided in this section.

No member of an electoral board shall serve as the chairman of a state, local or district level political party committee or as a paid worker in the campaign

of a candidate for nomination or election to an office filled by election in whole or in part by the qualified voters of the jurisdiction of the electoral board. (Code 1950, §§ 24-29, 24-32, 24-33, 24-42; 1970, c. 462, § 24.1-29; 1971, Ex. Sess., c. 204; 1973, c. 30; 1975, c. 515; 1978, c. 778; 1980, c. 639; 1984, c. 480; 1986, c. 558, § 24.1-33.1; 1993, cc. 480, 641; 1995, cc. 835, 848.)

Editor's note. — Acts 1993, c. 480, amended former § 24.1-29, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above. In accordance with c. 480, the amendment, in the second paragraph, in the fourth sentence, substituted "shall make" for "may make" and added the language beginning

"not later than," added "for each appointment" in the next-to-last sentence, and added the last sentence.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970). For survey of Virginia law on practice and pleading for the year 1974-1975, see 61 Va. L. Rev. 1799 (1975).

§ 24.2-107. Meetings; quorum; notice; account of proceedings; seal; records open to inspection. — The electoral board of each city and county shall meet during the first week in February and during the month of March each year at the time set by the board and at any other time on the call of any board member. Two members shall constitute a quorum. Notice of each meeting shall be given to all board members either by the secretary or the member calling the meeting at least one day prior to the meeting. Notice may be waived only by agreement of all board members.

The secretary shall keep an accurate account of all board proceedings in a minute book, including all appointments and removals of general registrars and officers of election. The secretary shall keep in his custody the duly adopted seal of the board.

Books, papers, and records of the board shall be open to inspection by any registered voter whenever the general registrar's office is open for business either at the office of the board or the office of the general registrar.

No election record containing an individual's social security number shall be made available for inspection or copying by anyone. The State Board of Elections shall prescribe procedures for local electoral boards and general registrars to make the information in certificates of candidate qualification available in a manner that does not reveal social security numbers. (Code 1950, §§ 24-34, 24-43; 1970, c. 462, § 24.1-30; 1978, c. 778; 1979, c. 27; 1982, c. 290; 1993, c. 641; 1994, c. 656.)

§ 24.2-108. Compensation and expenses of members. — The General Assembly shall establish a compensation and expense plan in the general appropriation act for the secretaries and members of the electoral boards. The governing body for the county or city of each electoral board shall pay compensation, expenses, and mileage in accordance with the plan and be reimbursed annually as authorized by the act.

Each electoral board member shall submit a written claim for mileage and expenses authorized by the plan. The claim, when filed and found to be correct, shall be paid by the county or city. The county or city shall pay claims for mileage at the rate payable to members of the General Assembly.

The governing body of any county or city may pay to the secretary of the electoral board any additional allowance for expenses it deems appropriate and may pay to a full-time secretary any additional compensation it deems appropriate.

Each county and city shall furnish necessary postage and office supplies for the electoral board. (Code 1950, §§ 24-37, 24-38, 24-40, 24-41; 1952, c. 540; 1956, c. 658; 1958, c. 42; 1964, c. 515; 1966, c. 714; 1970, c. 462, § 24.1-31; 1972, c. 620; 1974, c. 428; 1978, c. 778; 1981, c. 425; 1982, c. 650; 1993, c. 641.)

§ 24.2-109. Appointment and removal of general registrar and officers of election; powers and duties in general. — A. Each electoral board shall appoint the general registrar for its city or county and officers of election for each precinct who shall serve in all elections, including town elections, as provided in this chapter. The secretary of the electoral board shall promptly notify each appointee of his appointment.

The electoral board may remove from office, on notice, any general registrar or officer of election who fails to discharge the duties of his office according to law.

B. The electoral board shall perform the duties assigned by this title including, but not limited to, the preparation of ballots, the administration of absentee ballot provisions, the conduct of the election, and the ascertaining of the results of the election. (Code 1950, §§ 24-30, 24-35, 24-36, 24-52, 24-52.1, 24-55, 24-61, 24-65, 24-66, 24-118.1, 24-199; 1954, c. 691; 1962, c. 475; 1964, c. 608; 1968, cc. 97, 141; 1970, c. 462, §§ 24.1-32, 24.1-34, 24.1-43; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1976, c. 12; 1978, c. 778; 1980, c. 639; 1981, c. 425; 1982, cc. 290, 650; 1983, c. 511; 1984, c. 480; 1985, c. 197; 1986, c. 558; 1988, c. 528; 1989, c. 227; 1993, c. 641.)

Cross references. — For constitutional provisions as to electoral boards, see Va. Const., Art. II, § 8.

Electoral board members were acting as state employees when they failed to rehire

persons as general registrars. *McConnell v. Adams*, 829 F.2d 1319 (4th Cir. 1987), cert. denied, 486 U.S. 1006, 108 S. Ct. 1731, 100 L. Ed. 2d 195 (1988) (decided under prior law).

ARTICLE 4.

Registrars.

§ 24.2-110. Appointment, qualifications, and term of general registrar; vacancies; certain prohibitions. — Each electoral board shall meet in the first week in March 1995, and every four years thereafter, and shall appoint a general registrar, who shall be a qualified voter of the county or city for which he is appointed. General registrars shall serve four-year terms beginning April 1, 1995, and each fourth year thereafter, and continue in office until a successor is appointed and qualifies.

The electoral board shall fill any vacancy in the office of general registrar for the unexpired term. The electoral board shall declare vacant and fill the office of the general registrar if the appointee fails to qualify and deliver a copy of his oath to the secretary of the electoral board within thirty days after he has been notified of his appointment.

No general registrar shall hold any other office, by election or appointment, while serving as general registrar; however, with the consent of the electoral board, he may undertake other duties which do not conflict with his duties as general registrar. General registrars shall not serve as officers of election. The election or appointment of a general registrar to any other office shall vacate the office of the general registrar.

No general registrar shall be eligible to offer for or hold an office to be filled by election in whole or in part by the qualified voters of his jurisdiction at any election held during the time he serves as general registrar or for the six months thereafter.

The electoral board shall not appoint to the office of general registrar any person who is the spouse of an electoral board member or any person, or the spouse of any person, who is the parent, grandparent, sibling, child, or grandchild of an electoral board member.

No general registrar shall serve as the chairman of a political party or other officer of a state, local or district level political party committee. No general

registrar shall serve as a paid or volunteer worker in the campaign of a candidate for nomination or election to an office filled by election in whole or in part by the qualified voters of his jurisdiction. The restrictions of this paragraph shall apply to paid assistant registrars but shall not apply to unpaid assistant registrars. (Code 1950, §§ 24-30, 24-35, 24-36, 24-52, 24-52.1, 24-53, 24-55, 24-61, 24-65, 24-66, 24-118.1, 24-199; 1954, c. 691; 1958, c. 576; 1962, c. 475; 1964, c. 608; 1968, cc. 97, 141; 1970, c. 462, §§ 24.1-32, 24.1-34, 24.1-43, 24.1-44; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1976, c. 12; 1978, c. 778; 1980, c. 639; 1981, c. 425; 1982, cc. 290, 650; 1983, c. 511; 1984, c. 480; 1985, c. 197; 1986, c. 558, § 24.1-33.2; 1988, c. 528; 1989, c. 227; 1993, c. 641; 1995, cc. 835, 848; 1996, c. 308.)

Cross references. — As to the issuance of special license plates to magistrates, pharmacists, registered nurses, general registrars or postmasters, see § 46.2-746.9.

Registrar was acting as state officer when he failed to rehire person as assistant registrar. *McConnell v. Adams*, 829 F.2d

1319 (4th Cir. 1987), cert. denied, 486 U.S. 1006, 108 S. Ct. 1731, 100 L. Ed. 2d 195 (1988) (decided under prior law).

Until the resignation of a registrar has been accepted, it is inoperative and he remains in office. *Coleman v. Sands*, 87 Va. 689, 13 S.E. 148 (1891) (decided under prior law).

§ 24.2-111. Compensation and expenses of general registrars. — The General Assembly shall establish a compensation plan in the general appropriation act for the general registrars. The governing body for the county or city of each general registrar shall pay compensation in accordance with the plan and be reimbursed annually as authorized in the act. The governing body shall be authorized to supplement the salary of the general registrar to the extent provided in the act.

Each locality shall pay the reasonable expenses of the general registrar, including reimbursement for mileage at the rate payable to members of the General Assembly. In case of a dispute, the State Board shall approve or disapprove the reimbursement. (Code 1950, §§ 24-52, 24-52.1, 24-55, 24-61, 24-65, 24-66, 24-118.1; 1954, c. 691; 1962, c. 475; 1964, c. 608; 1968, cc. 97, 141; 1970, c. 462, § 24.1-43; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1976, c. 12; 1978, c. 778; 1981, c. 425; 1982, c. 290; 1983, c. 511; 1984, c. 480; 1985, c. 197; 1986, c. 558; 1988, c. 528; 1993, c. 641.)

§ 24.2-112. Assistants to general registrars; employees. — The electoral board shall determine the number and set the term for assistant registrars; however, their terms shall not extend beyond the term set by law of the incumbent general registrar. The general registrar shall establish the duties of assistant registrars, appoint assistant registrars, and have authority to remove any assistant registrar who fails to discharge the duties of his office.

In any county or city whose population is more than 28,600 but less than 29,000, there shall be at least one full-time assistant registrar who shall serve in the office of the general registrar.

In any county or city whose population is over 15,500, there shall be at least one assistant registrar who shall serve at least one day each week in the office of the general registrar.

Any county or city whose population is 15,500 or less shall have at least one substitute registrar who is able to take over the duties of the general registrar in an emergency and who shall assist the general registrar when he requests.

All assistant registrars shall have the same limitations and qualifications and fulfill the same requirements as the general registrar except that (i) an assistant registrar may be an officer of election and (ii) an assistant registrar who serves with pay shall be a qualified voter of the Commonwealth but is not required to be a qualified voter of the county or city in which he serves as

registrar. Candidates who are residents in the county or city for which they seek appointment may be given preference in hiring. Localities may mutually agree to share an assistant registrar among two or more localities. Assistant registrars who agree to serve without pay shall be supervised and trained by the general registrar.

All other employees shall be employed by the general registrar. The general registrar may hire additional temporary employees on a part-time basis as needed.

The compensation of any assistant registrar, other than those who agree to serve without pay, or any other employee of the general registrar shall be fixed and paid by the local governing body and shall be the equivalent of or exceed the minimum hourly wage established by federal law in 29 U.S.C. § 206 (a) (1), as amended.

The general registrar shall not appoint to the office of paid assistant registrar his spouse or any person, or the spouse of any person, who is his parent, grandparent, sibling, child, or grandchild. (Code 1950, § 24-58; 1970, c. 462, § 24.1-45; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1982, c. 650; 1983, c. 470; 1984, c. 480; 1986, c. 558, § 24.1-45.3; 1993, c. 641; 1999, c. 115; 2001, cc. 637, 638, 642, 643.)

The 1999 amendment added the present second paragraph.

The 2001 amendments. — The 2001 amendment by cc. 637, 638, and 643 are identical, and in the fifth paragraph inserted the clause (i) designator, and inserted “and (ii) an assistant registrar who serves with pay must be a qualified voter of the Commonwealth but is not required to be a qualified voter of the county or city in which he serves as registrar. Localities may mutually agree to share an assistant registrar among two or more localities.”

The 2001 amendment by c. 642, in the fifth paragraph, inserted the clause (i) designator, and inserted “and (ii) an assistant registrar shall be a qualified voter of the Commonwealth but shall not be required to be a qualified voter

of the county or city for which he is appointed. Candidates who are residents in the county or city for which they seek appointment may be given preference in hiring.”

The section is set out as above at the direction of the Virginia Code Commission.

Plaintiff entitled to money damages and injunctive relief. — Plaintiff who was not reappointed to her position as assistant general registrar of Lee County, solely because of her political party affiliation, was entitled to injunctive relief. *Burchett v. Cheek*, 637 F. Supp. 1249 (W.D. Va. 1985), aff'd in part, rev'd in part sub nom. *McConnell v. Adams*, 829 F.2d 1319 (4th Cir. 1987), cert. denied, 486 U.S. 1006, 108 S. Ct. 1731, 100 L. Ed. 2d 195 (1988) (decided under prior law).

§ 24.2-113. Special assistant registrars. — The general registrar of any city or county may appoint as a special assistant registrar any person who, although not being a qualified voter of such city or county, has served continuously for more than ten years in the office of the registrar of such city or county as an assistant registrar. The compensation of any such special assistant registrar shall be fixed and paid by the local governing body. (1971, Ex. Sess., c. 119, § 24.1-45.1; 1975, c. 515; 1993, c. 641.)

§ 24.2-114. Duties and powers of general registrar. — In addition to the other duties required by this title, the general registrar, and the assistant registrars acting under his supervision, shall:

1. Maintain the office of the general registrar, establish and maintain additional public places for voter registration in accordance with the provisions of § 24.2-412 and participate in programs to educate the general public concerning registration and encourage registration by the general public. No registrar shall actively solicit, in a selective manner, any application for registration or for a ballot or offer anything of value for any such application.

2. Perform his duties within the county or city he was appointed to serve, except that a registrar may (i) go into a county or city in the Commonwealth contiguous to his county or city to register voters of his county or city when

conducting registration jointly with the registrar of the contiguous county or city or (ii) notwithstanding any other provision of law, participate in multijurisdictional staffing for voter registration offices, approved by the State Board, that are located at facilities of the Department of Motor Vehicles.

3. Provide the appropriate forms for applications to register and to obtain the information necessary to complete the applications pursuant to the provisions of the Constitution of Virginia and general law.

3a. Indicate on the registration records for each accepted mail voter registration application form returned by mail pursuant to Article 3.1 (§ 24.2-416.1 et seq.) of Chapter 4 that the registrant has registered by mail. The general registrar shall fulfill this duty in accordance with the instructions of the State Board so that those persons who registered by mail are identified on the registration records, lists of registered voters furnished pursuant to § 24.2-405, lists of persons who voted furnished pursuant to § 24.2-406, and precinct registered voter lists used for the conduct of elections.

4. Accept a registration application or request for transfer or change of address submitted by or for a resident of any other county or city in the Commonwealth. Registrars shall process registration applications and requests for transfer or change of address from residents of other counties and cities in accordance with written instructions from the State Board and shall forward the completed application or request to the registrar of the applicant's residence. Notwithstanding the provisions of § 24.2-416, the registrar of the applicant's residence shall recognize as timely any application or request for transfer or change of address submitted to any person authorized to receive voter registration applications pursuant to Chapter 4 (§ 24.2-400 et seq.), prior to or on the final day of registration. The registrar of the applicant's residence shall determine the qualification of the applicant and promptly notify the applicant at the address shown on the application or request of the acceptance or denial of his registration or transfer.

5. Preserve order at and in the vicinity of the place of registration. For this purpose, the registrar shall be vested with the powers of a conservator of the peace while engaged in the duties imposed by law. He may exclude from the place of registration persons whose presence disturbs the registration process. He may appoint special officers, not exceeding three in number, for a place of registration and may summon persons in the vicinity to assist whenever, in his judgment, it is necessary to preserve order. The general registrar and any assistant registrar shall be authorized to administer oaths for purposes of this title.

6. Maintain the official registration records for his county or city in the system approved by, and in accordance with the instructions of, the State Board; preserve the written applications of all persons who are registered; and preserve for a period of four years the written applications of all persons who are denied registration or whose registration is cancelled.

7. If a person is denied registration, promptly notify such person in writing of the denial and the reason for denial in accordance with § 24.2-422.

8. Verify the accuracy of the separate precinct registered voter lists provided for each election by the State Board, make the lists available to the precincts, and return the lists to the State Board after each election for voting credit purposes.

9. After the return of the precinct registered voter lists by the State Board, retain the lists in his principal office for two years for any federal election and for one year for any other election.

10. Maintain accurate and current registration records and comply with the requirements of this title for the transfer, inactivation, and cancellation of voter registrations.

11. Whenever election districts, precincts, or polling places are altered, provide for entry into the voter registration system of the proper district and

precinct designations for each registered voter whose districts or precinct have changed and notify each affected voter of changes affecting his districts or polling place by mail.

12. Whenever any part of his county or city becomes part of another jurisdiction by annexation, merger, or other means, transfer to the appropriate general registrar the registration records of the affected registered voters. The general registrar for their new county or city shall notify them by mail of the transfer and their new election districts and polling places.

13. When he registers any person who was previously registered in another state, notify the appropriate authority in that state of the person's registration in Virginia.

14. At the request of the county or city chairman of any political party nominating a candidate for the General Assembly, constitutional office, or local office by a method other than a primary, review any petition required by the party in its nomination process to determine whether those signing the petition are registered voters with active status.

15. Carry out such other duties as prescribed by the electoral board. (Code 1950, §§ 24-59, 24-60, 24-60.1, 24-71 through 24-73, 24-90, 24-93, 24-94, 24-101, 24-111, 24-115, 24-118; 1950, p. 381; 1958, c. 576; 1962, cc. 422, 536; 1968, c. 143; 1970, c. 462, §§ 24.1-46, 24.1-54, 24.1-68; 1972, c. 620; 1973, c. 30; 1974, c. 428; 1976, c. 616; 1979, c. 329; 1980, c. 639; 1982, c. 650; 1983, c. 398; 1984, c. 480; 1986, c. 558; 1990, c. 193; 1993, c. 641; 1996, cc. 72, 73; 1998, c. 354; 2000, cc. 512, 556, 857.)

Cross references. — As to the requirement to furnish lists of registered voters, see § 24.2-405.

The 2000 amendments. — The 2000 amendments by cc. 512 and 556 are identical, and in subdivision 2, inserted the clause (i) designator and added clause (ii).

The 2000 amendment by c. 857, in subdivi-

sion 4, inserted "or request for transfer or change of address" in the first and third sentences; in the second sentence inserted "and requests for transfer or change of address" and inserted "or request" following "application"; and in the fourth sentence inserted "or request" and added "or transfer" at the end of the sentence.

ARTICLE 5.

Officers of Election.

§ 24.2-115. Appointment, qualifications, and term of officers of election. — Each electoral board at its regular meeting in the first week of February shall appoint officers of election. Their terms of office shall begin on March 1 following their appointment and continue for one year or until their successors are appointed.

Not less than three competent citizens shall be appointed for each precinct and, insofar as practicable, each officer shall be a qualified voter of the precinct he is appointed to serve, but in any case a qualified voter of the city or county. In appointing the officers of election, representation shall be given to each of the two political parties having the highest and next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election. The representation of the two parties shall be equal at each precinct having an equal number of officers and shall vary by no more than one at each precinct having an odd number of officers. If possible, officers shall be appointed from lists of nominations filed by the political parties entitled to appointments. The party shall file its nominations with the secretary of the electoral board at least ten days before February 1 each year.

Officers of election shall serve for all elections held in their respective precincts during their terms of office. However, for a primary election involving only one political party, persons representing the political party holding the

primary shall serve as the officers of election in any county or city in which the political party has submitted a list of nominations as provided above.

The electoral board shall designate one officer as the chief officer of election and one officer as the assistant for each precinct. The officer designated as the assistant for a precinct, whenever practicable, shall not represent the same political party as the chief officer for the precinct.

The electoral board shall instruct each chief officer and assistant in his duties not less than three nor more than thirty days before each election. Each electoral board may instruct each officer of election in his duties not less than three nor more than thirty days before each November general election.

If an officer of election is unable to serve at any election during his term of office, the electoral board may at any time appoint a substitute who shall hold office and serve for the unexpired term.

The secretary of the electoral board shall prepare a list of the officers of election which shall be available for inspection and posted in the general registrar's office prior to March 1 each year. (Code 1950, §§ 24-30, 24-193, 24-195, 24-199; 1950, p. 164; 1970, c. 462, §§ 24.1-32, 24.1-105, 24.1-106; 1972, c. 620; 1975, c. 515; 1976, c. 616; 1978, cc. 330, 778; 1980, c. 639; 1982, c. 650; 1984, c. 480; 1986, c. 558; 1989, c. 227; 1993, c. 641; 1997, c. 459; 1998, c. 187.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-115.1. Officers of election; hours of service. — The electoral board may provide that the officers of election for one or more precincts may be assigned to work all or a portion of the time that the precinct is open on election day. However, the chief officer and the assistant chief officer, appointed pursuant to § 24.2-115 to represent the two political parties, shall be on duty at all times. (1998, cc. 549, 572; 2001, c. 623.)

The 2001 amendments. — The 2001 amendment by c. 623 deleted the former second paragraph, which read: "This section shall expire on July 1, 2001."

§ 24.2-116. Compensation of officers. — The governing body of each county, city, or town shall pay its officers of election at least thirty dollars for each day's service rendered on each election day. In addition, the governing body shall pay each officer ten dollars and mileage at the rate payable to members of the General Assembly for each time he delivers pollbooks and ballots to the polling place and each time he delivers returns and ballots to the appropriate official after the polls close. (Code 1950, §§ 24-207 through 24-209; 1950, p. 245; 1956, c. 235; 1968, c. 141; 1970, c. 462, § 24.1-107; 1972, c. 620; 1974, c. 428; 1993, c. 641.)

§ 24.2-117. Removal of officer of election on request of candidate. — A candidate may require the removal of an officer of election for the election in which he is a candidate by a request in writing, filed at least seven days before the election with the electoral board appointing the officer, on the grounds that the officer is the spouse, parent, grandparent, sibling, child, or grandchild of an opposing candidate. The electoral board may appoint a substitute who shall hold office and serve for that election. (1982, c. 650, § 24.1-105.1; 1993, c. 641.)

§ 24.2-118. Appointments when officers fail to serve. — If an officer of election is absent or unable to serve and the polls have been open for one hour, the remaining officers of election shall appoint a substitute officer of election for the precinct. The substitute officer shall possess the same qualifications

and, after taking the requisite oath, have the same powers as officers appointed by an electoral board. (Code 1950, § 24-197; 1970, c. 462, § 24.1-108; 1993, c. 641.)

ARTICLE 6.

Miscellaneous Provisions.

§ 24.2-119. Restrictions on persons holding other offices serving as member of electoral board, registrar, or officer of election. — No person, nor the deputy of any person, who is employed by or holds any office or post of profit or emolument, or who holds any elective office of profit or trust, under the governments of the United States, the Commonwealth, or any county, city, or town, shall be appointed a member of the electoral board or general registrar. No person, nor the deputy or the employee of any person, who holds any elective office of profit or trust under the government of the United States, the Commonwealth, or any county, city, or town of the Commonwealth, shall be appointed an assistant registrar or officer of election. (Code 1950, §§ 24-31, 24-198; 1970, c. 462, § 24.1-33; 1971, Ex. Sess., c. 204; 1986, c. 248; 1993, c. 641.)

§ 24.2-120. Oath of office. — The oath of office for the members of the electoral board, registrars, and officers of election shall be the oath stated in Article II, Section 7, of the Constitution. Each member of the electoral board, registrar, and officer of election shall take and sign the oath before performing the duties of his office.

Each member of an electoral board and general registrar shall file the original signed oath in the clerk's office of the circuit court of his county or city. The general registrar shall file a copy with the secretary of his electoral board.

The oath of office for assistant and substitute registrars and for officers of election may be administered by a notary as well as by persons authorized to administer oaths under § 49-3. (Code 1950, §§ 24-29, 24-30, 24-32, 24-33, 24-42, 24-52, 24-52.1, 24-55, 24-61, 24-65, 24-66, 24-118.1, 24-199; 1954, c. 691; 1962, c. 475; 1964, c. 608; 1968, cc. 97, 141; 1970, c. 462, §§ 24.1-29, 24.1-32, 24.1-43; 1971, Ex. Sess., c. 204; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1976, c. 12; 1978, c. 778; 1980, c. 639; 1981, c. 425; 1982, cc. 290, 650; 1983, c. 511; 1984, c. 480; 1985, c. 197; 1986, c. 558; 1988, c. 528; 1989, c. 227; 1993, c. 641.)

Party affiliation improper grounds for not rehiring registrars. — Party affiliation must be more than a matter of convenience in order to be used in appointing registrars; it must be an appropriate requirement for the position. Since such requirement was not dem-

onstrated, the failure to rehire registrars and assistant registrar violated their First and Fourth Amendment rights. *McConnell v. Adams*, 829 F.2d 1319 (4th Cir. 1987), cert. denied, 486 U.S. 1006, 108 S. Ct. 1731, 100 L. Ed. 2d 195 (1988) (decided under prior law).

§ 24.2-121. Defense of the electoral board, its members, and the general registrar; appointment of counsel. — If any electoral board, any of its members, any general registrar, or any employee of or paid assistant to a registrar is made defendant in any civil action arising out of the performance of his official duties, and does not have legal defense provided under applicable insurance coverage, the officer, employee, or assistant may apply to the circuit court of the county or city in which he serves to assign counsel for his defense in the action. On a showing of good cause, the court may issue orders respecting the employment of an attorney or attorneys, including the attorney for the Commonwealth, as may be appropriate and fix his compensation. Reimbursement of any expenses incurred in the defense of the action may also be allowed by the court. Legal fees and expenses shall be paid from the

treasury of the county or city except in the case of appointment of the attorney for the Commonwealth. (1986, c. 558, § 24.1-31.1; 1990, c. 201; 1993, c. 641.)

§ 24.2-122. Status of members of electoral boards, registrars, and officers of election. — Members of electoral boards, registrars, and officers of election shall serve the Commonwealth and its localities in administering the election laws. They shall be deemed to be employees of the county or city in which they serve except as otherwise specifically provided by state law.

Assistant registrars who agree to serve without pay are not state or local employees for any purpose. (Code 1950, §§ 24-30, 24-199; 1970, c. 462, § 24.1-32; 1975, c. 515; 1978, c. 778; 1980, c. 639; 1982, c. 650; 1986, c. 558; 1989, c. 227; 1993, c. 641.)

Cross references. — For constitutional provisions as to electoral boards, see Va. Const., Art. II, § 8.

Electoral board members were acting as state employees when they failed to rehire

persons as general registrars. *McConnell v. Adams*, 829 F.2d 1319 (4th Cir. 1987), cert. denied, 486 U.S. 1006, 108 S. Ct. 1731, 100 L. Ed. 2d 195 (1988) (decided under prior law).

§ 24.2-123. Requirements for registration and voting; prohibition on use of power of attorney. — No action undertaken to fulfill any requirement of this title to register or vote shall be valid or complete when the action is based on the exercise of a power of attorney, or other writing, in which any principal shall have vested any power or authority in an attorney-in-fact or other agent. (1995, cc. 192, 234.)

CHAPTER 2.

FEDERAL, COMMONWEALTH, AND LOCAL OFFICERS.

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- 24.2-210. Election and term of Governor, Lieutenant Governor, and Attorney General.
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ARTICLE 1.

General Provisions.

§ 24.2-200. When terms to begin. — The terms of all officers chosen at a November general election shall begin on the January 1 succeeding their election unless otherwise provided in this chapter. Notwithstanding any other provision of law, the terms of all officers elected at a May general election shall begin on the July 1 succeeding their election. They shall continue to discharge the duties of their respective offices until their successors qualify. (Code 1950, §§ 24-142, 24-169; 1970, c. 462, § 24.1-73; 1993, c. 641.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-201. When term of officer elected to fill vacancy commences and expires. — The term of office of any person chosen at a special election to fill a vacancy in any public office shall commence as soon as he shall qualify and give bond, if bond is required, and shall continue for the unexpired term of such office. Any person so elected shall qualify and give bond, if bond is required, no later than thirty days following the date on which the special election was held. (Code 1950, § 24-144; 1970, c. 462, § 24.1-75; 1982, c. 146; 1993, c. 641.)

Term does not commence on issuance of certificate of election. — Under former § 24.1-75, the term of office of a person chosen at a special election to fill a vacancy in any

public office commences upon his qualification, and not upon the issuance of his certificate of election by the clerk. State ex rel. Barrett v. Lambert, 18 Va. L. Reg. 336 (1912) (decided under prior law).

ARTICLE 2.

Federal Offices.

§ 24.2-202. Electors for President and Vice-President. — The qualified voters of the Commonwealth shall choose the Commonwealth's electors for President and Vice-President of the United States at the general election in November 1996, and every fourth year thereafter. Each voter shall vote for a number of electors which equals the whole number of senators and representatives to which the Commonwealth at that time is entitled in the Congress of the United States. (Code 1950, § 24-7; 1970, c. 462, § 24.1-8; 1993, c. 641.)

Constitutionality. — Virginia's design for selecting presidential electors does not disserve the United States Constitution. Williams v. Virginia State Bd. of Elections, 288 F. Supp. 622 (E.D. Va. 1968), aff'd, 393 U.S. 320, 89 S. Ct. 555, 21 L. Ed. 2d 516 (1969) (decided under prior law).

§ 24.2-203. Convening of electors; filling vacancies; how electors required to vote. — The electors shall convene at the capitol building in the capital city of the Commonwealth at 12:00 noon on the first Monday after the second Wednesday in December following their election. Those electors present shall immediately fill, by ballot and by a plurality of votes, any vacancy due to death, failure or inability to attend, refusal to act, or other cause. When all electors are present, or the vacancies have been filled, they shall proceed to perform the duties required of such electors by the Constitution and laws of the United States.

Electors selected by the state convention of any political party as defined in § 24.2-101 shall be required to vote for the nominees of the national convention to which the state convention elects delegates. Electors named in any petition of qualified voters as provided in § 24.2-543 shall be required to vote for the persons named for President and for Vice President in the petition. (Code 1950, §§ 24-8, 24-9, 24-290.6; 1962, c. 536; 1970, c. 462, §§ 24.1-9, 24.1-162; 1993, c. 641; 2001, c. 630.)

The 2001 amendments. — The 2001 amendment by c. 630 substituted "required to vote" for "expected to vote" in two places in the second paragraph.

§ 24.2-204. Election of electors and meeting when Congress prescribes a different day. — If Congress establishes a different day for choosing electors, or appoints a different day for their meeting to give their votes, then the election shall be held and the meeting of the electors take place on those days. (Code 1950, §§ 24-8, 24-9; 1962, c. 536; 1970, c. 462, § 24.1-9; 1993, c. 641.)

§ 24.2-205. Pay of electors. — Each elector shall receive the sum of fifty dollars per day while actually engaged in the discharge of his official duties and the same mileage as is allowed to members of the General Assembly. (Code 1950, § 24-10; 1970, c. 462, § 24.1-10; 1976, c. 616; 1993, c. 641.)

§ 24.2-206. Election and term of United States Senators. — The qualified voters of the Commonwealth shall elect its members of the United States Senate at the general election held in November next preceding the

expiration of each member's respective term of office, for terms of six years to begin on the January 3 following their election. (Code 1950, § 24-1; 1970, c. 462, § 24.1-2; 1993, c. 641.)

§ 24.2-207. Filling vacancies in Senate. — When any vacancy occurs in the representation of the Commonwealth of Virginia in the United States Senate, the Governor shall issue a writ of election to fill the vacancy for the remainder of the unexpired term. The election shall be held on the next succeeding November general election date or, if the vacancy occurs within 120 days prior to that date, on the second succeeding November general election date. The Governor may make a temporary appointment to fill the vacancy until the qualified voters fill the same by election. (Code 1950, § 24-2; 1970, c. 462, § 24.1-3; 1993, c. 641.)

§ 24.2-208. Election and term of members of House of Representatives. — The qualified voters of each congressional district shall elect one member of the United States House of Representatives at the general election in November 1994, and every second year thereafter, for the term of two years to begin on the January 3 following his election. (Code 1950, § 24-5; 1970, c. 462, § 24.1-6; 1993, c. 641.)

§ 24.2-209. Filling vacancies in House of Representatives. — When any vacancy occurs in the representation of the Commonwealth of Virginia in the House of Representatives, or when a representative-elect dies or resigns, the Governor shall issue a writ of election to fill the vacancy. Upon receipt of written notification by a representative or representative-elect of his resignation as of a stated date, the Governor may immediately issue a writ to call the election. (Code 1950, § 24-6; 1970, c. 462, § 24.1-7; 1983, c. 461; 1993, c. 641.)

ARTICLE 3.

Statewide Offices: Governor, Lieutenant Governor, and Attorney General.

§ 24.2-210. Election and term of Governor, Lieutenant Governor, and Attorney General. — The qualified voters of the Commonwealth shall elect the Governor, Lieutenant Governor, and Attorney General at the general election in November 1997, and every fourth year thereafter for terms of four years, to commence on the Saturday after the second Wednesday in January following their election.

The person having the highest number of votes for each office shall be declared elected. If two or more have the highest and an equal number of votes for an office, one of them shall be chosen for the office by a majority of the total membership of the General Assembly. (Code 1950, §§ 24-148, 24-149; 1962, c. 536; 1970, c. 462, §§ 24.1-80, 24.1-81; 1971, Ex. Sess., cc. 119, 131; 1993, c. 641.)

Cross references. — As to election and terms of office of the Governor and Lieutenant Governor, see Va. Const., Art. V, §§ 1, 2 and 13.

As to election of the Attorney General, see Va. Const., Art. V, § 15. As to contested election of these officers, see § 24.2-804.

§ 24.2-211. Discharge of duties when office of Governor is vacant or Governor is disabled. — When the Governor-elect is disqualified, resigns, or dies following his election but prior to taking office, the Lieutenant Governor-elect shall succeed to the office of Governor for the full term. When the Governor-elect fails to assume office for any other reason, the Lieutenant Governor-elect shall serve as acting Governor.

Whenever the Governor transmits to the President pro tempore of the Senate and the Speaker of the House of Delegates his written declaration that he is unable to discharge the powers and duties of his office and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Lieutenant Governor as acting Governor.

Whenever the Attorney General, the President pro tempore of the Senate, and the Speaker of the House of Delegates, or a majority of the total membership of the General Assembly, transmit to the Clerk of the Senate and the Clerk of the House of Delegates their written declaration that the Governor is unable to discharge the powers and duties of his office, the Lieutenant Governor shall immediately assume the powers and duties of the office as acting Governor.

Thereafter, when the Governor transmits to the Clerk of the Senate and the Clerk of the House of Delegates his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Attorney General, the President pro tempore of the Senate, and the Speaker of the House of Delegates, or a majority of the total membership of the General Assembly, transmit within four days to the Clerk of the Senate and the Clerk of the House of Delegates their written declaration that the Governor is unable to discharge the powers and duties of his office. Thereupon the General Assembly shall decide the issue, convening within forty-eight hours for that purpose, if not already in session. If within twenty-one days after receipt of the latter declaration or, if the General Assembly is not in session, within twenty-one days after the General Assembly is required to convene, the General Assembly determines by three-fourths vote of the elected membership of each house of the General Assembly that the Governor is unable to discharge the powers and duties of his office, the Lieutenant Governor shall become Governor; otherwise, the Governor shall resume the powers and duties of his office.

In the case of the removal of the Governor from office or in the case of his disqualification, death or resignation, the Lieutenant Governor shall become Governor.

If a vacancy exists in the office of Lieutenant Governor when the Lieutenant Governor is to succeed to the office of Governor or to serve as acting Governor, the Attorney General, if he is eligible to serve as Governor, shall succeed to the office of Governor for the unexpired term or serve as acting Governor. If the Attorney General is ineligible to serve as Governor, the Speaker of the House of Delegates, if he is eligible to serve as Governor, shall succeed to the office of Governor. If a vacancy exists in the office of the Speaker of the House of Delegates or if the Speaker of the House of Delegates is ineligible to serve as Governor, the House of Delegates shall convene and fill the vacancy. (Code 1950, § 24-150; 1960, c. 488; 1970, c. 462, § 24.1-82; 1971, Ex. Sess., c. 165; 1993, c. 641.)

Cross references. — For succession to office of Governor, see Va. Const., Art. V, § 16.

§ 24.2-212. Discharge of duties when office of Lieutenant Governor vacant. — When a vacancy occurs in the office of Lieutenant Governor, the duties of that office shall be discharged by the President pro tempore of the Senate, but he shall not by reason thereof be deprived of his right to act and vote as a member of the Senate. (Code 1950, § 24-152; 1970, c. 462, § 24.1-84; 1973, c. 30; 1993, c. 641.)

§ 24.2-213. Filling vacancy in office of Attorney General. — If a vacancy occurs in the office of Attorney General during the session of the

General Assembly, the General Assembly shall fill the vacancy by a majority vote of the total membership. If a vacancy occurs during a recess of the General Assembly, the Governor shall appoint a successor to serve for the remainder of the unexpired term or until the end of thirty days after the commencement of the next session of the General Assembly, whichever happens first. At that next session, the General Assembly shall fill the vacancy by election by a majority vote of the total membership for the unexpired portion of the term. (Code 1950, § 24-153; 1970, c. 462, § 24.1-85; 1993, c. 641.)

Cross references. — As to the chief deputy Attorney General serving as acting Attorney General until such time as the vacancy is filled pursuant to this section, see § 2.2-501.

ARTICLE 4.

General Assembly.

§ 24.2-214. Election and term of Senators. — The members of the Senate of Virginia shall be elected at the general election in November 1995, and every four years thereafter for terms of four years, to begin on the second Wednesday in January succeeding their election. (Code 1950, § 24-13; 1970, c. 462, § 24.1-13; 1993, c. 641.)

Cross references. — For constitutional provision as to election of senators, see Va. Const., Art. IV, § 2.

§ 24.2-215. Election and term of members of the House of Delegates. — The members of the House of Delegates shall be elected at the general election in November 1995, and every two years thereafter for terms of two years, to begin on the second Wednesday in January succeeding their election. (Code 1950, § 24-11; 1958, c. 333; 1970, c. 462, § 24.1-11; 1993, c. 641.)

Cross references. — For constitutional provision as to election of delegates, see Va. Const., Art. IV, § 3.

§ 24.2-216. Filling vacancies in the General Assembly. — When a vacancy occurs in the membership of the General Assembly during the recess of the General Assembly or when a member-elect to the next General Assembly dies, resigns, or becomes legally incapacitated to hold office prior to its meeting, the Governor shall issue a writ of election to fill the vacancy. If the vacancy occurs during the session of the General Assembly, the Speaker of the House of Delegates or the President pro tempore of the Senate, as the case may be, shall issue the writ unless the respective house by rule or resolution shall provide otherwise. Upon receipt of written notification by a member or member-elect of his resignation as of a stated date, the Governor, Speaker, or President Pro Tempore, as the case may be, may immediately issue the writ to call the election.

The writ shall be directed to the secretaries of the electoral boards of the respective counties and cities composing the district for which the election is to be held. (Code 1950, § 24-16; 1970, c. 462, § 24.1-16; 1983, c. 461; 1993, c. 641.)

Cross references. — For constitutional provisions as to writs of election to fill vacancies, see Va. Const., Art. IV, § 7.

ARTICLE 5.

Constitutional and Local Officers.

§ 24.2-217. Election and terms of constitutional officers. — The qualified voters of each county shall elect a sheriff, an attorney for the Commonwealth, a treasurer, and a commissioner of the revenue at the general election in November 1995, and every four years thereafter unless a county has adopted an optional form of government which provides that the office be abolished or a county's charter so provides. The qualified voters of each city, unless its charter provides otherwise, shall elect a sheriff, an attorney for the Commonwealth, a treasurer, and a commissioner of the revenue at the general election in November 1997, and every four years thereafter. All shall hold office for a term of four years beginning the January 1 next succeeding their election.

The qualified voters of the several counties shall elect a clerk of the circuit court of the county at the general election in November 1999, and every eight years thereafter. The qualified voters of each city having a circuit court shall elect a clerk of the circuit court at the November 1995, general election and every eight years thereafter. They shall hold office for a term of eight years beginning the January 1 next succeeding their election.

If a county and city share any of the offices to which this section applies, the qualified voters of the city shall cast their votes for that office according to the schedule set forth above for counties. (Code 1950, §§ 24-154, 24-155, 24-161, 24-162, 24-167; 1970, c. 462, §§ 24.1-86, 24.1-87; 1971, Ex. Sess., c. 119; 1979, c. 522; 1993, c. 641.)

Cross references. — For constitutional provision as to county and city officers, see Va. Const., Art. VII, § 4.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-218. Election and term of county supervisors. — The qualified voters of each county election district shall elect one or more supervisors at the general election in November 1995, and every four years thereafter for terms of four years, except as provided in § 24.2-219 or as provided by law for those counties having the optional form of government under the provisions of Article 2 (§ 15.2-702 et seq.) of Chapter 7 of Title 15.2. (Code 1950, § 24-157; 1968, c. 639; 1970, c. 462, § 24.1-88; 1971, Ex. Sess., c. 265; 1973, c. 30; 1976, c. 616; 1981, c. 12; 1982, c. 650; 1993, c. 641.)

§ 24.2-219. Alternative for biennial county supervisor elections and staggered terms. — A. The governing body of any county may by ordinance provide that the county board of supervisors be elected biennially for staggered four-year terms.

In lieu of an ordinance by the board of supervisors, the registered voters of the county may file a petition with the circuit court of the county requesting that a referendum be held on the question of whether the county board of supervisors should be elected biennially for staggered four-year terms. The petition shall be signed by registered voters equal in number to at least ten percent of the number registered in the county on the January 1 preceding its filing.

The court pursuant to §§ 24.2-682 and 24.2-684 shall order the election officials on a day fixed in the order to conduct a referendum on the question. The clerk of the court shall publish notice of the referendum in a newspaper having general circulation in the county once a week for four consecutive weeks and shall post a copy of the notice at the door of the courthouse of the county. The question on the ballot shall be:

“Shall the members of the county board of supervisors be elected biennially for staggered four-year terms?”

- Yes
- No”

The referendum shall be held and the results certified as provided in § 24.2-684.

B. If a majority of the voters voting in the referendum voted for biennial election of the members of the board of supervisors for staggered four-year terms, or if the governing body has so provided by ordinance, then the terms of supervisors elected at the next general election for supervisors shall be as follows:

1. If the number of supervisors elected in the county is an even number, half of the successful candidates shall be elected for terms of four years and half of the successful candidates shall be elected for terms of two years; or

2. If the number of supervisors in the county is an odd number, the smallest number of candidates which creates a majority of the elected supervisors shall be elected for terms of four years and all other successful candidates shall be elected for terms of two years.

The electoral board of the county shall assign the individual terms of members by lot at its meeting on the day following the election and immediately upon certification of the results. However, the electoral board may assign individual terms of members by election district in a drawing at a meeting held prior to the last day for a person to qualify as a candidate, if the governing body of the county so directs by ordinance or resolution adopted at least thirty days prior to the last day for qualification and members are elected by district. In all elections thereafter all successful candidates shall be elected for terms of four years.

In any county where the chairman of the board is elected from the county at large pursuant to § 15.2-503 or § 15.2-802, the provisions of this section shall not affect that office. The chairman of the board shall be elected for a term of four years in 1995 and every four years thereafter.

C. If the representation on the board of supervisors among the election districts is reapportioned, or the number of districts is diminished or the boundaries of the districts are changed, elections shall be held in each new district at the general election next preceding the expiration of the term of the office of the member of the board representing the predecessor district of each new district. If the number of districts is increased, the electoral board shall assign a two-year or four-year term for each new district so as to maintain as equal as practicable the number of members to be elected at each biennial election. (Code 1950, § 24-157; 1968, c. 639; 1970, c. 462, § 24.1-88; 1971, Ex. Sess., c. 265; 1973, c. 30; 1976, c. 616; 1981, c. 12; 1982, c. 650; 1993, c. 641.)

Editor’s note. — Acts 1999, c. 89, cl. 1, effective March 15, 1999, provides: “Biennial election of county supervisors in Giles County; initial terms.

“In the event the board of supervisors of Giles County shall provide by ordinance for the election of supervisors biennially for staggered four-year terms pursuant to § 24.2-219 of the Code of Virginia, the board also may provide by ordinance, notwithstanding the provisions of subsection B of § 24.2-219, that the initial

terms of supervisors elected at the next general election for supervisors shall be as follows: (i) supervisors elected from election districts shall be elected for an initial term of four years and (ii) supervisors elected from the county at large shall be elected for an initial term of two years. Thereafter, all supervisors shall be elected for terms of four years.

“The provisions of this section shall be applicable to members of the county school board pursuant to § 24.2-223 of the Code of Virginia.”

§ 24.2-220. Reversion to quadrennial elections. — The governing body of any county, by ordinance, may repeal an ordinance previously adopted to provide for the election of the board of supervisors biennially for staggered

four-year terms and provide for the election of the board of supervisors quadrennially for four-year terms. The qualified voters of the county, by petition and referendum in accordance with the requirements and procedures set forth in § 24.2-219, may repeal an ordinance of the board or a referendum previously adopted which authorized the election of the board of supervisors biennially for four-year terms. The question in the referendum to rescind shall be:

“Shall the members of the county board of supervisors be elected quadrennially for four-year terms?”

- Yes
 No”

If a majority of the voters voting in the referendum voted for quadrennial election of the members of the board of supervisors for four-year terms, or if the governing body has so provided by ordinance, then the successors to those supervisors whose terms expire in 1995 or any fourth year thereafter shall be elected for a four-year term and immediate successors to those supervisors whose terms expire in 1993 or any fourth year thereafter shall be elected for a two-year term and all subsequent successors for a four-year term. (Code 1950, § 24-157; 1968, c. 639; 1970, c. 462, § 24.1-88; 1971, Ex. Sess., c. 265; 1973, c. 30; 1976, c. 616; 1981, c. 12; 1982, c. 650; 1993, c. 641.)

§ 24.2-221. Time and frequency of referenda on election and term of supervisors. — A referendum as provided in § 24.2-219 or § 24.2-220 shall be held only in the year preceding the year in which a general election for supervisors is to be held. Once a referendum on either question is held, no further referendum on either question may be held in the county for a period of four years. (Code 1950, § 24-157; 1968, c. 639; 1970, c. 462, § 24.1-88; 1971, Ex. Sess., c. 265; 1973, c. 30; 1976, c. 616; 1981, c. 12; 1982, c. 650; 1993, c. 641.)

§ 24.2-222. Election and terms of mayor and council for cities and towns. — The qualified voters of each city and town shall elect a mayor, if so provided by charter, and a council for the terms provided by charter. Except as provided in § 24.2-222.1, and notwithstanding any other provision of law, general or special: (i) any election of mayor or councilmen of a city or town whose charter provides for such elections at two-year or four-year intervals shall take place at the May general election of an even-numbered year and (ii) any election of mayor or councilmen of a city or town whose charter provides for such elections at one-year or three-year intervals shall take place at the general election in May of the years designated by charter. The persons so elected shall enter upon the duties of their offices on July 1 succeeding their election and remain in office until their successors have qualified. (Code 1950, §§ 24-160, 24-168; 1970, c. 462, § 24.1-90; 1971, Ex. Sess., c. 119; 1972, c. 747; 1993, c. 641; 2000, c. 1045.)

Cross references. — As to titles, election, powers and duties of city and county officers, see Va. Const., Art. VII, § 4.

Editor's note. — Acts 1998, c. 713, cl. 1, effective April 16, 1998, provides: “Election of mayors and council members for certain towns.

“A. The qualified voters of the Towns of Dayton and Mount Crawford shall each elect a mayor, if provided for by charter, and a council, which shall be the governing body thereof, for the terms provided for by their charters. Notwithstanding the provisions of § 24.2-222 or any other provision of law, general or special,

any election of a mayor or council members for such a town shall take place on the Tuesday after the first Monday in November of an even-numbered year, and the persons so elected shall enter upon the duties of their offices on the January 1 succeeding their elections and remain in office until their successors have qualified.

“B. In such towns:

“1. Any mayor or council member elected in 1994 for a four-year term, or in 1996 for a two-year term, shall hold office until his successor has qualified. His successor shall be elected

on the Tuesday after the first Monday in November 1998 and, notwithstanding any charter provision to the contrary, shall take office on the January 1 following his election.

"2. Any mayor or council member elected in 1996 for a four-year term shall hold office until his successor has qualified. His successor shall be elected on the Tuesday after the first Monday in November 2000 and, notwithstanding any charter provision to the contrary, shall take office on the January 1 following his election.

"C. Notwithstanding the provisions of § 24.2-503, candidates for town mayor or council subject to the provisions of this act shall file their written statements of qualification and economic interests pursuant to §§ 24.2-501 and 24.2-502 not later than 7:00 p.m. on the second Tuesday in June.

"D. Any county voting precinct established pursuant to § 24.2-307 which includes residents of such a town shall be wholly contained within the boundaries of the town. No such voting precinct shall include both such a town

or portion thereof and county territory located outside the boundaries of the town."

Acts 1998, c. 713, cl. 3, effective April 16, 1998, provides: "That the provisions of this act shall be effective only for the 1998 elections for the affected towns. Elections in the affected towns on and after January 1, 1999, notwithstanding the provisions of § 1 of this act, shall be conducted in May in accordance with general law, and the term of any mayor or council member elected in November 1998 shall expire on June 30 following the May election of his successor."

The 2000 amendments. — The 2000 amendment by c. 1045, in the second sentence, added "Except as provided in § 24.2-222.1, and" at the beginning of the sentence, and inserted "-year" following "two" in clause (i) and "one" in clause (ii).

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-222.1. Alternative election of mayor and council at November general election in cities and towns. — A. Notwithstanding the provisions of § 24.2-222, the council of a city or town may provide by ordinance that the mayor, if an elected mayor is provided for by charter, and council shall be elected at the November general election date, for terms to commence January 1. No such ordinance shall be adopted between January 1 and the May general election date of the year in which city or town elections regularly are scheduled to be held therein.

B. Alternatively, the registered voters of a city or town may file a petition with the circuit court of the city or of the county within which the town is located asking that a referendum be held on the question of whether the city or town should elect the mayor, if an elected mayor is provided for by charter, and council members at the November general election date. The petition shall be signed by registered voters equal in number to at least ten percent of the number registered in the city or town on the January 1 preceding the filing.

The court, pursuant to § 24.2-684, shall order the election officials on a day fixed in the order to conduct a referendum on the question, provided that no such referendum shall be scheduled between January 1 and the May general election date of the year in which city or town elections regularly are scheduled to be held therein. The clerk of the court shall publish notice of the referendum once a week for the three consecutive weeks prior to the referendum in a newspaper having general circulation in the city or town, and shall post a copy of the notice at the door of the courthouse of the city or county within which the town is located. The question on the ballot shall be:

"Shall the (city or town) change the election date of the mayor (if so provided by charter) and members of council from the May general election to the November general election?"

If members of the school board in the city or town are elected by the voters, the ballot question also shall state that the change in election date applies to the election of school board members.

The referendum shall be held and the results certified as provided in § 24.2-684. If a majority of the voters voting in the referendum vote in favor of the change, the mayor and council thereafter shall be elected at the November general election date for terms to commence January 1.

C. No term of a mayor or member of council shall be shortened in implementing the change to the November election date. Mayors and members of council who were elected at a May general election and whose terms are to expire as of June 30 shall continue in office until their successors have been elected at the November general election and have been qualified to serve. (2000, c. 1045.)

§ 24.2-223. Election and term of school board members. — In any county, city or town wherein members of the school board are elected, pursuant to Article 7 (§ 22.1-57.1 et seq.) of Chapter 5 of Title 22.1, elections shall be held to coincide with the election of members of the governing body at the regular general election in November or the regular general election in May, as the case may be. Elected school board members shall serve terms which are the same as those of the governing body, to commence on January 1 following their election or July 1 following their election, as the case may be. (1993, c. 641; 2000, c. 1045.)

Editor's note. — Acts 1999, c. 89, cl. 1, effective March 15, 1999, provides: "Biennial election of county supervisors in Giles County; initial terms.

"In the event the board of supervisors of Giles County shall provide by ordinance for the election of supervisors biennially for staggered four-year terms pursuant to § 24.2-219 of the Code of Virginia, the board also may provide by ordinance, notwithstanding the provisions of subsection B of § 24.2-219, that the initial terms of supervisors elected at the next general election for supervisors shall be as follows: (i) supervisors elected from election districts shall be elected for an initial term of four years and (ii) supervisors elected from the county at large

shall be elected for an initial term of two years. Thereafter, all supervisors shall be elected for terms of four years.

"The provisions of this section shall be applicable to members of the county school board pursuant to § 24.2-223 of the Code of Virginia."

The 2000 amendments. — The 2000 amendment by c. 1045, in the first sentence, deleted "in a county" following "November," and substituted "as the case may be" for "in a city or town" at the end of the sentence; in the second sentence, deleted "in a county" preceding "or July," and substituted "as the case may be" for "in a city or town" at the end of the sentence; and deleted the former last sentence, referring to elections prior to 1994.

§ 24.2-224. Local elections not otherwise provided for. — The election to any public office required to be filled by the qualified voters of any county, city, town, or election district for which an election time is not provided by law shall be held at the general election immediately preceding the time provided for the term of such office to commence. (Code 1950, § 24-143; 1970, c. 462, § 24.1-74; 1993, c. 641.)

Former § 24.1-74 was not applicable to the election of clerks. In re Caton, 11 Va. L. Rég. (n.s.) 84 (1922) (decided under prior law).

ARTICLE 6.

Vacancies in Elected Constitutional and Local Offices.

§ 24.2-225. Applicability. — This article applies to vacancies in any elected constitutional or local office if there is no other statutory or charter provision for filling a vacancy in the office. Further provisions within this article which specifically override other statutory or charter provisions shall prevail. (Code 1950, § 24-145; 1958, c. 621; 1970, c. 462, § 24.1-76; 1975, c. 515; 1976, c. 616; 1977, c. 490; 1984, c. 480; 1993, c. 641.)

§ 24.2-226. Election to fill vacancy. — A. A vacancy in any elected local office, whether occurring when for any reason an officer-elect does not take

office or occurring after an officer begins his term, shall be filled by special election except as provided for certain towns by § 24.2-228 or for constitutional officers as provided in § 24.2-228.1, or unless provided otherwise by statute or charter. The governing body or, in the case of an elected school board, the school board of the county, city, or town in which the vacancy occurs shall, within fifteen days of the occurrence of the vacancy, petition the circuit court to issue a writ of election to fill the vacancy as set forth in Article 5 (§ 24.2-681 et seq.) of Chapter 6. Either upon receipt of the petition or on its own motion, the court shall issue the writ ordering the election for the next ensuing general election to be held in November in the case of county, city, or town officers regularly elected in November, or in May in the case of other city and town officers. If the vacancy occurs within 120 days prior to that election, however, the writ shall order the election to be held at the second ensuing such general election. The person so elected shall hold the office for the remaining portion of the regular term of the office for which the vacancy is being filled.

B. Notwithstanding any provision of law or charter to the contrary, no election to fill a vacancy shall be ordered or held if the general election at which it is to be called is scheduled within sixty days of the end of the term of the office to be filled.

C. Notwithstanding any provision of law or charter to the contrary, when an interim appointment to a vacancy in any governing body or elected school board has been made by the remaining members thereof, no election to fill the vacancy shall be ordered or held if the general election at which it is to be called is scheduled in the year in which the term expires. (Code 1950, §§ 24-145, 24-147.1; 1958, c. 621; 1970, c. 462, §§ 24.1-76, 24.1-79; 1975, c. 515; 1976, c. 616; 1977, c. 490; 1984, c. 480; 1993, c. 641; 1996, c. 873; 2000, cc. 787, 1045, 1070.)

Cross references. — As to conditions and procedures for special elections to fill vacancies in constitutional offices, see § 24.2-228.1.

The 2000 amendments. — The 2000 amendments by cc. 787, 1045, and 1070 are identical, and in the first sentence in subsection A, deleted “constitutional or” following “elected” near the beginning of the sentence, and inserted “or for constitutional officers as provided in § 24.2-228.1”; in the third sentence in subsection A, deleted “officers and city constitutional officers” following “county,” and inserted “or town officers regularly elected in November,” following “city.”

Acts 2000, cc. 787 and 1045 are effective October 1, 2000. Acts 2000, c. 1045 is effective July 1, 2000. Hence the changes are treated as not postponed.

Editor’s note. — The cases cited below were decided under former law corresponding to this section.

Constitutionality. — The due process clause does not embrace the federal concept of the separation of powers so as to render unconstitutional the Virginia statutes that authorize circuit judges to fill vacancies on boards of supervisors. *Avens v. Wright*, 320 F. Supp. 677 (W.D. Va. 1970).

There is no federal constitutional wrong solely because the General Assembly, in exercising its authority to prescribe the manner for

filling vacancies in public office, has delegated the responsibility for selecting interim officers to the state courts. *Avens v. Wright*, 320 F. Supp. 677 (W.D. Va. 1970).

Delegation of appointive power to judges not in conflict with doctrine of separation of powers. — Acting under the grant of § 56 of the Virginia Constitution of 1902, the legislature empowered circuit judges to fill vacancies on boards of supervisors, regardless of the cause of the vacancy, and it specifically provided that this power could be exercised even though the vacancy was created by the court’s own order in redistricting a county. This delegation of the appointive power to judges did not conflict with the doctrine of separation of powers found in §§ 5 and 39 of the Constitution of 1902. *Avens v. Wright*, 320 F. Supp. 677 (W.D. Va. 1970).

Equal protection not denied. — There is little merit to the claim that county residents are denied equal protection because city and town councils are authorized by statutes to fill their own vacancies; even former § 15.1-808 provides for judicial appointment of interim councilmen if the vacancies constitute a majority of council. Municipal and county governments have mutually exclusive jurisdictions, and though boards of supervisors and councils are, generally speaking, both legislative bodies, their origin, function, and powers differ greatly.

Avens v. Wright, 320 F. Supp. 677 (W.D. Va. 1970).

All citizens in the county are treated in much the same manner, where neither the supervisors whom the circuit judges retained nor the supervisors appointed to represent new districts after rearrangement serve constituencies identical with the old. *Avens v. Wright*, 320 F. Supp. 677 (W.D. Va. 1970).

Former section refers to vacancy occurring during term of office. — The vacancy referred to in former § 24.1-76 is a vacancy occurring during the term of an office, by death, resignation, removal and the like, and not a failure to appoint a successor to an incumbent who is to hold until his successor is appointed and has qualified. In the latter case there can be no vacancy. *Chaddock v. Burke*, 103 Va. 694, 49 S.E. 976 (1905). But see *Johnson v. Mann*, 77 Va. 265 (1883), reaffirmed in, *Burnett v. Brown*,

194 Va. 103, 72 S.E.2d 394 (1952).

Judicial appointment does not result in taxation against consent. — Plaintiffs are not being taxed against their consent when supervisors are judicially appointed, since it is their representatives in the state legislature who determine how empty seats on county boards should be filled, and the counties are but subdivisions of the State. *Avens v. Wright*, 320 F. Supp. 677 (W.D. Va. 1970).

Appointed supervisors hold office in same posture as previously elected officers. — In the absence of any evidence to indicate that the appointed supervisors will represent interests other than those of the districts in which they reside, they hold office in a posture almost identical to the previously elected officers. *Avens v. Wright*, 320 F. Supp. 677 (W.D. Va. 1970).

§ 24.2-227. Interim appointment by court until vacancy filled by election for certain offices. — When a vacancy occurs in any local elected office other than a constitutional office, local governing body, or an elected school board, a majority of the judges of the judicial circuit for the county or city in which it occurs shall make an interim appointment to the office until the vacancy can be filled by special election. The senior judge shall make the appointment if a majority of the judges cannot agree. The chief or senior deputy, if there is one in the office, shall perform all the duties of the office until the person appointed to fill the vacancy has qualified. The person so appointed shall hold office until the qualified voters fill the vacancy by election and the person so elected has qualified. (Code 1950, § 24-145; 1958, c. 621; 1970, c. 462, § 24.1-76; 1975, c. 515; 1976, c. 616; 1977, c. 490; 1984, c. 480; 1993, c. 641; 1996, c. 873; 2000, cc. 787, 1070.)

Cross references. — As to conditions and procedures for special elections to fill vacancies in constitutional offices, see § 24.2-228.1.

The 2000 amendments. — The 2000 amendments by cc. 787 and 1070, and effective

October 1, 2000, are identical, and in the first sentence, deleted “constitutional or” preceding “local elected” and inserted “constitutional office” preceding “local governing.”

§ 24.2-228. Interim appointment to local governing body or elected school board; elected mayor. — A. When a vacancy occurs in a local governing body or an elected school board, the remaining members of the body or board, respectively, within forty-five days of the office becoming vacant, shall appoint a qualified voter of the election district in which the vacancy occurred to fill the vacancy. If a majority of the remaining members cannot agree, or do not act, the judges of the circuit court of the county or city shall make the appointment. The person so appointed in a county or city, or a town with a population greater than 3,500, shall hold office until the qualified voters fill the vacancy by special election pursuant to § 24.2-226 and the person so elected has qualified. The person so appointed in a town with a population of 3,500 or less shall serve for the remainder of the term and no special election shall be held.

If a majority of the seats on any governing body or elected school board are vacant, the remaining members shall not make interim appointments and the vacancies shall be filled as provided in § 24.2-227.

B. When a vacancy occurs in the office of a mayor who is elected by the voters, the council shall make an interim appointment to fill the vacancy as provided in subsection A.

C. For the purposes of this article and subsection D of § 22.1-57.3, local school boards comprised of elected and appointed members shall be deemed elected school boards. (1975, c. 515, § 24.1-76.1; 1993, c. 641; 1996, c. 873; 1999, c. 128.)

The 1999 amendment substituted "forty-five days" for "thirty days" in the first sentence in subsection A.

Law Review. — For survey of Virginia administrative law for the year 1974-1975, see 61 Va. L. Rev. 1632 (1975).

§ 24.2-228.1. Election to fill vacancy in constitutional office. — A. A vacancy in any elected constitutional office, whether occurring when for any reason an officer-elect does not take office or occurring after an officer begins his term, shall be filled by special election. The governing body of the county or city in which the vacancy occurs shall, within fifteen days of the occurrence of the vacancy, petition the circuit court to issue a writ of election to fill the vacancy as set forth in Article 5 (§ 24.2-681 et seq.) of Chapter 6 of this title. Either upon receipt of the petition or on its own motion, the court shall promptly issue the writ ordering the election for a date determined pursuant to § 24.2-682.

B. The highest ranking deputy officer, or, in the case of the office of attorney for the Commonwealth, the highest ranking full-time assistant attorney for the Commonwealth, if there is such a deputy or assistant in the office, shall be vested with the powers and shall perform all of the duties of the office, and shall be entitled to all the privileges and protections afforded by law to elected or appointed constitutional officers, until the qualified voters fill the vacancy by election and the person so elected has qualified and taken the oath of office. In the event that (i) there is no deputy officer or full-time assistant attorney for the Commonwealth in the office or (ii) the highest-ranking deputy officer or assistant attorney for the Commonwealth declines to serve, the court shall make an interim appointment to fill the vacancy pursuant to § 24.2-227 until the qualified voters fill the vacancy by election and the person so elected has qualified and taken the oath of office.

C. Notwithstanding any provision of law to the contrary, no election to fill a vacancy shall be ordered or held if the general election at which it is to be called is scheduled within sixty days of the end of the term of the office to be filled. (2000, cc. 787, 1070.)

Effective date. — This section is effective October 1, 2000.

§ 24.2-229. Appointees to qualify and give bond in thirty days. — All officers appointed to fill vacancies shall qualify and give bond, if bond is required, within thirty days after their appointment in like manner as provided in §§ 15.2-1522 and 15.2-1523 for the qualification of such officers when elected by the people. (Code 1950, § 24-146; 1970, c. 462, § 24.1-77; 1975, c. 515; 1993, c. 641.)

ARTICLE 7.

Removal of Public Officers from Office.

§ 24.2-230. Applicability of article; certain exceptions. — This article shall apply to all elected or appointed Commonwealth, constitutional, and local

officers, except officers for whose removal the Constitution of Virginia specifically provides.

However, an appointed officer shall be removed from office only by the person or authority who appointed him unless he is sentenced for a crime as provided for in § 24.2-231 or is determined to be "mentally incompetent" as provided for in § 24.2-232. This exception shall not apply to an officer who is (i) appointed to fill a vacancy in an elective office or (ii) appointed to an office for a term established by law and the appointing person or authority is not given the unqualified power of removal. (1975, cc. 515, 595, §§ 24.1-79.1, 24.1-79.2; 1993, c. 641; 1998, c. 582.)

Cross references. — As to applicability of this article to the board of directors of the Virginia Commercial Space Flight Authority, see § 2.2-2203.

Law Review. — For survey of Virginia ad-

ministrative law for the year 1974-1975, see 61 Va. L. Rev. 1632 (1975). For survey of Virginia law on practice and pleading for the year 1974-1975, see 61 Va. L. Rev. 1799 (1975).

§ 24.2-231. Forfeiture of office by person sentenced for commission of certain crimes. — Any person holding any public office of honor, profit, or trust in this Commonwealth who is convicted of a felony and for whom all rights of appeal have terminated, shall by such final conviction forfeit his office or post and thereafter may not act therein under his previous election or appointment. A pardon which may be afterwards granted him shall not void the forfeiture. (Code 1950, § 2.1-36; 1966, c. 677; 1975, cc. 515, 595, § 24.1-79.3; 1993, c. 641.)

Law Review. — For survey of Virginia administrative law for the year 1974-1975, see 61 Va. L. Rev. 1632 (1975). For survey of Virginia law on practice and pleading for the year 1974-1975, see 61 Va. L. Rev. 1799 (1975). For comment on rights of the convicted felon on parole, see 13 U. Rich. L. Rev. 367 (1979).

A conviction and judgment for felony of a justice of the peace was held forfeiture of his office and a bar to his afterwards acting under his commission; and a pardon neither avoided the forfeiture nor restored his capacity. Commonwealth v. Fugate, 29 Va. (2 Leigh) 724 (1830) (decided under prior law).

§ 24.2-232. Vacancy occurring when officer determined "mentally incompetent" (incapacitated). — A person who is determined to be incapacitated in a judicial proceeding as provided for in Article 1.1 (§ 37.1-134.6 et seq.) of Chapter 4 of Title 37.1 shall be deemed for purposes of Article II, Section 1 of the Constitution of Virginia and this title to be "mentally incompetent" as that term is used in those provisions. The office of any person who is so determined to be incapacitated, shall become vacant and the vacancy filled in the manner provided by law. Notwithstanding the provisions of Article 1.1 (§ 37.1-134.6 et seq.) of Chapter 4 of Title 37.1, however, any officer shall have a jury trial unless it is waived by him or for him by his counsel of record. (1975, cc. 515, 595, § 24.1-79.4; 1993, c. 641; 1997, c. 921; 1998, c. 582.)

Law Review. — For survey of Virginia administrative law for the year 1974-1975, see 61 Va. L. Rev. 1632 (1975). For survey of Virginia

law on practice and pleading for the year 1974-1975, see 61 Va. L. Rev. 1799 (1975).

§ 24.2-233. Removal of elected and certain appointed officers by courts. — Upon petition, a circuit court may remove from office any elected officer or officer who has been appointed to fill an elective office, residing within the jurisdiction of the court:

1. For neglect of duty, misuse of office, or incompetence in the performance of duties when that neglect of duty, misuse of office, or incompetence in the

performance of duties has a material adverse effect upon the conduct of the office, or

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

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

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

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

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

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

Any person removed from office under the provisions of subdivision 2 or 3 may not be subsequently subject to the provisions of this section for the same criminal offense. (1975, cc. 515, 595, § 24.1-79.5; 1989, c. 470; 1993, c. 641.)

Cross references. — As to punishment for misdemeanors, see § 18.2-11.

Law Review. — For survey of Virginia administrative law for the year 1974-1975, see 61

Va. L. Rev. 1632 (1975). For survey of Virginia law on practice and pleading for the year 1974-1975, see 61 Va. L. Rev. 1799 (1975).

§ 24.2-234. Removal of officer appointed for a term certain. — Any officer appointed to an office for a term established by law may be removed from office, under the provisions of § 24.2-233, upon a petition filed with the circuit court in whose jurisdiction the officer resides signed by the person or a majority of the members of the authority who appointed him, if the appointing person or authority is not given the unqualified power of removal. In the case of a member of a county or city electoral board, the circuit court also shall proceed for removal of a member pursuant to § 24.2-235 upon a petition signed by a majority of the members of the State Board of Elections. (1975, cc. 515, 595, § 24.1-79.6; 1993, c. 641.)

Law Review. — For survey of Virginia law on practice and pleading for the year 1974-1975, see 61 Va. L. Rev. 1799 (1975).

§ 24.2-235. Procedure. — A petition for the removal of an officer shall state with reasonable accuracy and detail the grounds or reasons for removal and shall be signed by the person or persons making it under penalties of perjury. As soon as the petition is filed with the court, the court shall issue a rule requiring the officer to show cause why he should not be removed from office, the rule alleging in general terms the cause or causes for such removal. The rule shall be returnable in not less than five nor more than ten days and shall be served upon the officer with a copy of the petition. Upon return of the rule duly executed, unless good cause is shown for a continuance or postponement to a later day in the term, the case shall be tried on the day named in the rule and take precedence over all other cases on the docket. If upon trial it is determined that the officer is subject to removal under the provisions of § 24.2-233, he shall be removed from office. (1975, cc. 515, 595, § 24.1-79.7; 1993, c. 641.)

Law Review. — For survey of Virginia law on practice and pleading for the year 1974-1975, see 61 Va. L. Rev. 1799 (1975).

Editor's note. — The cases cited below were decided under former law corresponding to this section.

Former section strictly construed. — Since a proceeding to remove a public officer is highly penal, former § 24.1-79.7 must be strictly construed. Commonwealth ex rel. Davis v. Malbon, 195 Va. 368, 78 S.E.2d 683 (1953).

A statutory proceeding for removal from office is quasi-criminal in its character. Warren v. Commonwealth, 136 Va. 573, 118 S.E. 125 (1923); Commonwealth ex rel. Davis v. Malbon, 195 Va. 368, 78 S.E.2d 683 (1953).

And § 8.01-430 is not applicable. — In a proceeding under former § 24.1-79.7 to remove a commissioner of the revenue, the jury found a verdict in favor of the commissioner. The verdict was set aside by the trial court as being contrary to the evidence, and the court instead of awarding a new trial entered final judgment removing the commissioner from office under § 8.01-430. This was held error, as a proceeding to remove a public officer is not a civil action within the meaning of that phrase in § 8.01-430. Warren v. Commonwealth, 136 Va. 573, 118 S.E. 125 (1923). See Commonwealth ex rel. Davis v. Malbon, 195 Va. 368, 78 S.E.2d 683 (1953).

For it does not embrace quasi-criminal proceedings. — From the language of the revisor's note, and the use of the technical term "civil action" in § 8.01-430, it is apparent that that section means to embrace only private personal actions, and not such a quasi-criminal statutory proceeding as a proceeding to remove a public officer under former § 24.1-79.7, which is not a private or personal action — is not purely private or civil — but is one which is primarily public in its nature, and which, although not a criminal case, is highly penal, and one in which the Commonwealth is a party. Warren v. Commonwealth, 136 Va. 573, 118 S.E. 125 (1923). See Commonwealth ex rel. Davis v. Malbon, 195 Va. 368, 78 S.E.2d 683 (1953).

Acquittal contrary to law properly set aside. — In a proceeding under former § 24.1-79.7 to remove a commissioner of the revenue, the verdict of the jury acquitted the accused upon all of the charges against him. Upon the law applicable to the uncontroverted evidence, the accused had committed, during his current term of office, one of the offenses specified in this section, under which the proceeding was had. It was held that the verdict was contrary to the law and the evidence and therefore was properly set aside by the trial court. Warren v. Commonwealth, 136 Va. 573, 118 S.E. 125 (1923).

But may not be set aside if warranted. — In a proceeding under former § 24.1-79.7, to remove a commissioner of the revenue, one of the charges was that the commissioner had knowingly and wilfully neglected to perform his duties by failing to assess persons with the necessary license taxes. Under the evidence the jury was warranted in finding that the accused did not act corruptly or with evil intent, but honestly and with reasonable diligence, in the matters embraced in this charge. It was held that a verdict of the jury in favor of the accused could not be set aside as to such charge. Warren v. Commonwealth, 136 Va. 573, 118 S.E. 125 (1923).

Curing incomplete petition for removal. — Where in a proceeding for removal of a sheriff the petition for his removal failed to state that the offenses charged against the sheriff occurred during his present term of office as sheriff, the error was cured where the court permitted the filing of the "Specifications of Amended Rule" in which the grounds of removal were limited to two charges, which were stated therein with reasonable accuracy and detail. Barbee v. Murphy, 149 Va. 406, 141 S.E. 237 (1928).

Petition sufficiently definite. — In a proceeding against a sheriff for his removal from office the petition charged that the sheriff "wilfully, tacitly, neglected" to enforce the prohibition law. Defendant objected that this specification charged the sheriff with a "vague dereliction of duty not covered by the statute," because it contained the word "tacitly." It was held that the word "tacitly" did not enlarge the scope of the offense charged. It simply described the manner in which the sheriff neglected and refused to enforce the law, and might be treated as surplusage. Barbee v. Murphy, 149 Va. 406, 141 S.E. 237 (1928).

Error to instruct as to grounds not specified in statute. — In a proceeding to remove a public officer it would be improper to instruct the jury as to any ground of removal not specified in the statute. Commonwealth ex rel. Davis v. Malbon, 195 Va. 368, 78 S.E.2d 683 (1953).

Admissibility of evidence. — In proceeding for removal of sheriff evidence offered by defendant of his reputation for truth and veracity, and for honesty in enforcement of the law, was properly admitted. Commonwealth ex rel. Davis v. Malbon, 195 Va. 368, 78 S.E.2d 683 (1953).

Burden of proof. — Proceeding for removal of sheriff being highly penal in nature, the burden was upon the Commonwealth to prove by clear and convincing evidence that defendant sheriff was guilty of the statutory ground of removal alleged; and no presumption could be indulged that he had knowledge of violations of law if the jury believed such violations were a matter of general public knowledge. Com-

monwealth ex rel. Davis v. Malbon, 195 Va. 368, 78 S.E.2d 683 (1953).

§ 24.2-236. Suspension from office pending hearing and appeal. — In the event of a judicial proceeding under §§ 24.2-231, 24.2-232, 24.2-233, or 24.2-234, the circuit court may enter an order suspending the officer pending the hearing. The court may, in its discretion, continue the suspension until the matter is finally disposed of in the Supreme Court or otherwise. During the suspension the court may appoint some suitable person to act in the officer's place. The officer's compensation shall be withheld and kept in a separate account and paid to him if and when the judicial proceedings result in his favor. Otherwise, it shall be paid back to the county, city, town or State Treasurer who paid it. (1975, cc. 515, 595, § 24.1-79.8; 1993, c. 641.)

Law Review. — For survey of Virginia law on practice and pleading for the year 1974-1975, see 61 Va. L. Rev. 1799 (1975).

§ 24.2-237. Who to represent Commonwealth; trial by jury; appeal. — The attorney for the Commonwealth shall represent the Commonwealth in any trial under this article. If the proceeding is against the attorney for the Commonwealth, the court shall appoint an attorney to represent the Commonwealth. Any officer proceeded against shall have the right to demand a trial by jury. The Commonwealth and the defendant shall each have the right to apply to the Supreme Court for a writ of error and supersedeas upon the record made in the trial court and the Supreme Court may hear and determine such cases. (1975, cc. 515, 595, § 24.1-79.9; 1993, c. 641.)

Law Review. — For survey of Virginia law on practice and pleading for the year 1974-1975, see 61 Va. L. Rev. 1799 (1975).

Appeal not a matter of right. — Under former § 24.1-79.9, the losing party is simply accorded the right to apply for a writ of error, and the Supreme Court is given the right to consider the petition and grant a writ of error

and supersedeas if the court feels that doubt exists as to the propriety of the judgment complained of and that the case should be reviewed. The statute does not contemplate an appeal as a matter of right. Commonwealth v. Smith, 195 Va. 389, 78 S.E.2d 641 (1953) (decided under prior law).

§ 24.2-238. Costs may be allowed. — If a judicial proceeding under this article is dismissed in favor of the respondent, the court in its discretion may require the state agency or political subdivision which the respondent serves to pay court costs or reasonable attorney fees, or both, for the respondent. (1975, cc. 515, 595, § 24.1-79.10; 1993, c. 641.)

Law Review. — For survey of Virginia law on practice and pleading for the year 1974-1975, see 61 Va. L. Rev. 1799 (1975).

CHAPTER 3.

ELECTION DISTRICTS, PRECINCTS, AND POLLING PLACES.

Article 1.

Joint Reapportionment Committee.

Sec. 24.2-300. Joint Reapportionment Committee.

Sec.

24.2-301. Staff to Joint Reapportionment Committee; census liaison.

24.2-301.1. Reapportionment of congressional and state legislative districts;

Sec.

United States Census population counts.

Article 2.

Congressional, Senatorial, and House of Delegates Districts.

- 24.2-302. Congressional districts.
- 24.2-303. [Repealed.]
- 24.2-303.1. Senatorial districts.
- 24.2-304. [Repealed.]
- 24.2-304.01. House of Delegates districts.

Article 2.1.

Reapportionment of Local Election Districts.

- 24.2-304.1. At-large and district elections; reapportionment of districts or wards; limits.
- 24.2-304.2. Governing body authorized to expend funds for reapportionment.
- 24.2-304.3. Recording reapportionment ordinance; notice requirements.
- 24.2-304.4. Mandamus action for failure to reapportion districts or wards.
- 24.2-304.5. Notification of certain civil actions.
- 24.2-304.6. Effect of reapportionment on appointments and terms of local officers, school board and planning commission members.

Article 3.

Requirements for Election Districts, Precincts, and Polling Places.

Sec.

- 24.2-305. Composition of election districts and precincts.
- 24.2-306. Changes not to be enacted within sixty days of general election; notice requirements.
- 24.2-307. Requirements for county and city precincts.
- 24.2-308. Requirements for town precincts.
- 24.2-309. Establishment of precinct with less than minimum number of voters; conduct of elections where all voters do not have same choice of candidates.
- 24.2-309.1. [Repealed.]
- 24.2-310. Requirements for polling places.
- 24.2-310.1. Polling places; additional requirement.

Article 4.

Effective Dates of Redistricting Measures.

- 24.2-311. Effective date of decennial redistricting measures; elections following decennial redistricting.
- 24.2-312. Effective date of other redistricting measures; elections following annexation.

ARTICLE 1.

Joint Reapportionment Committee.

§ 24.2-300. **Joint Reapportionment Committee.** — The Joint Reapportionment Committee is continued and shall consist of five members of the Committee on Privileges and Elections of the House of Delegates and three members of the Committee on Privileges and Elections of the Senate appointed by the respective chairmen of the two committees. The Joint Committee shall elect its own chairman and vice-chairman. The Joint Committee shall supervise activities required for the tabulation of population for the census and for the timely reception of precinct population data for reapportionment, and perform such other duties and responsibilities and exercise such supervision as may promote the orderly redistricting of congressional, state legislative, and local election districts. (1986, c. 593, § 24.1-40.10; 1992, c. 425; 1993, c. 641.)

Cross references. — As to the Attorney General's authority in developing appropriate remedies concerning challenges to the legality of election district boundaries, see § 2.2-508.

§ 24.2-301. **Staff to Joint Reapportionment Committee; census liaison.** — A. The Division of Legislative Services shall serve as staff to the Joint Reapportionment Committee. The Director of the Division, or his designated representative, shall serve as state liaison with the United States Bureau of the Census on matters relating to the tabulation of the population for reapportionment purposes pursuant to United States Public Law 94-171. The governing bodies, electoral boards, and registrars of every county and municipi-

pality shall cooperate with the Division of Legislative Services in the exchange of all statistical and other information pertinent to preparation for the census.

B. The Division shall maintain the current election district and precinct boundaries of each county and city as a part of the General Assembly's computer-assisted mapping and redistricting system. Whenever a county or city governing body adopts an ordinance which changes an election district or precinct boundary, the local governing body shall provide a copy of its ordinance, along with maps and other evidence documenting the boundary, to the Division.

C. The Division shall prepare and maintain a written description of the boundaries for the congressional, senatorial, and House of Delegates districts set out in Article 2 (§ 24.2-302 et seq.) of this chapter. The descriptions shall identify each district boundary, insofar as practicable, by reference to political subdivision boundaries or to physical features such as named roads and streets. The Division shall furnish to each general registrar the descriptions for the districts dividing his county or city. The provisions of Article 2, including the statistical reports referred to in Article 2, shall be controlling in any legal determination of a district boundary. (1986, c. 593, § 24.1-40.11; 1991, 1st Sp. Sess., c. 10; 1992, c. 425, § 24.1-40.7.1; 1993, c. 641.)

§ 24.2-301.1. Reapportionment of congressional and state legislative districts; United States Census population counts. — For the purposes of redrawing the boundaries of the congressional, state Senate, and House of Delegates districts after the United States Census for the year 2000 and every ten years thereafter, the General Assembly shall use the population data provided by the United States Bureau of the Census identical to those from the actual enumeration conducted by the Bureau for the apportionment of the Representatives of the United States House of Representatives following the United States decennial census, except that the census data used for this apportionment purpose shall not include any population figure which is not allocated to specific census blocks within the Commonwealth, even though that population may have been included in the apportionment population figures of the Commonwealth for the purpose of allocating United States House of Representatives seats among the states. (2000, c. 884.)

Law Review. — For an article, "Redistricting in the Post-2000 Era," see 8 Geo. Mason L. Rev. 431 (2000).

ARTICLE 2.

Congressional, Senatorial, and House of Delegates Districts.

§ 24.2-302. Congressional districts. — A. There shall be eleven Virginia members of the United States House of Representatives elected from eleven congressional districts and each district is entitled to representation by one representative.

B. The eleven congressional districts are:

First. All of Accomack, Caroline, Essex, Gloucester, James City, King and Queen, King George, King William, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, Spotsylvania, Stafford, Westmoreland, and York Counties; all of the Cities of Fredericksburg, Poquoson, and Williamsburg; and part of the Cities of Hampton and Newport News.

Second. All of the City of Virginia Beach; and part of the City of Norfolk.

Third. All of Charles City, New Kent, and Surry Counties; part of Henrico and Isle of Wight Counties; and part of the Cities of Hampton, Newport News, Norfolk, and Richmond.

Fourth. All of Amelia, Brunswick, Dinwiddie, Greenville, Nottoway, Prince George, Southampton, and Sussex Counties; all of the Cities of Chesapeake, Colonial Heights, Emporia, Franklin, Hopewell, Petersburg, Portsmouth, and Suffolk; and part of Chesterfield and Isle of Wight Counties.

Fifth. All of Appomattox, Buckingham, Campbell, Charlotte, Cumberland, Fluvanna, Franklin, Halifax, Henry, Lunenburg, Mecklenburg, Nelson, Patrick, Pittsylvania, and Prince Edward Counties; all of the Cities of Bedford, Charlottesville, Danville, Martinsville, and South Boston; and part of Albemarle and Bedford Counties.

Sixth. All of Alleghany, Amherst, Augusta, Bath, Botetourt, Highland, and Rockbridge Counties; all of the Cities of Buena Vista, Clifton Forge, Covington, Harrisonburg, Lexington, Lynchburg, Roanoke, Salem, Staunton, and Waynesboro; and part of Bedford, Roanoke, and Rockingham Counties.

Seventh. All of Culpeper, Goochland, Greene, Hanover, Louisa, Madison, Orange, and Powhatan Counties; part of Albemarle, Chesterfield, and Henrico Counties; and part of the City of Richmond.

Eighth. All of Arlington County; all of the Cities of Alexandria and Falls Church; and part of Fairfax County.

Ninth. All of Bland, Buchanan, Carroll, Craig, Dickenson, Floyd, Giles, Grayson, Lee, Montgomery, Pulaski, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe Counties; all of the Cities of Bristol, Galax, Norton, and Radford; and part of Roanoke County.

Tenth. All of Clarke, Fauquier, Frederick, Loudoun, Page, Rappahannock, Shenandoah, and Warren Counties; all of the Cities of Manassas, Manassas Park, and Winchester; and part of Fairfax, Prince William, and Rockingham Counties.

Eleventh. All of the City of Fairfax; and part of Fairfax and Prince William Counties.

C. All references to boundaries of counties and cities shall be interpreted to refer to those in existence on April 1, 1991, and as reported by the United States Bureau of the Census in the 1990 census reports provided pursuant to United States Public Law 94-171, notwithstanding subsequent boundary changes by law, annexation, merger, consolidation, or the voiding of boundary changes therefore made final.

D. Parts of counties and cities listed in subsection B for the Fifth, Sixth, Eighth, Ninth, Tenth, and Eleventh Congressional Districts are defined by reference to the United States 1990 Census precincts, parts of precincts, and blocks listed for each congressional district in the Statistical Report (C0830452) on file with the Clerk of the Senate of Virginia pursuant to Chapter 983 of the 1993 Acts of Assembly. Notwithstanding the Statistical Report (C0830452), that part of Timberville Precinct of Rockingham County included in the Sixth District shall be only that part of the 1990 census precinct situated within the corporate limits of the Town of Broadway as of January 1, 1992. That part of Timberville Precinct not within such 1992 corporate limits shall be included in the Tenth District.

E. Parts of counties and cities listed in subsection B for the First, Second, Third, Fourth, and Seventh Congressional Districts are defined by reference to the precincts and to the United States 1990 Census blocks listed for each congressional district in the Statistical Report (C0926750 — Dominion File) on file with the Clerk of the Senate of Virginia pursuant to this act. (1991, 2nd Sp. Sess., c. 6, §§ 24.1-17.300 through 24.1-17.313; 1992, c. 874; 1993, cc. 641, 983; 1998, c. 1.)

Cross references. — For constitutional provisions as to apportionment of State into congressional districts, see Va. Const., Art. II, § 6.

Editor's note. — Acts 1993, c. 983, amended former § 24.1-17.313, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above. In accordance with c. 983, "(C0830452)" was substituted for "(C0786555)" in the first and second sentences of subsection D.

Acts 1998, c. 1, cl. 2 provides: "That the parts of the counties and cities listed in subsection B for the First, Second, Third, Fourth, and Seventh Congressional Districts shall be defined by reference to precincts listed in Statistical Report C0926750 — Dominion File. That report incorporates, to the extent practical, locally enacted precincts in effect November 1, 1997. Congressional district lines conform to United States 1990 Census block boundaries. If a locally enacted precinct boundary divides a United States 1990 Census block, the congressional district boundary shall follow the 1990 Census block boundary as shown in the data files and maps supporting Statistical Report C0926750.

"The counties and cities divided in the First, Second, Third, Fourth, and Seventh Congressional Districts are divided as follows:

"Albemarle County: The line dividing Albemarle County between the Fifth and Seventh Congressional Districts is not changed by the provisions of this act.

"Chesterfield County: The Beach, Branches, Dutch Gap, Enon, Ettrick, Harrowgate, Matoaca, Point of Rocks, Walthall, Wells, and Winfrees Store Precincts are in the Fourth Congressional District. The balance of Chesterfield County is in the Seventh Congressional District.

"Henrico County: The Byrd, Cardinal, Causeway, Cedarfield, Coalpit, Crestview, Derbyshire, Dumbarton, Freeman, Gayton, Glen Allen, Glenside, Godwin, Greendale, Hermitage, Hilliard, Innsbrook, Jackson Davis, Johnson, Lakeside, Lakewood, Lauderdale, Longan, Maude Trevvett, Maybeury, Monument Hills, Mooreland, Pemberton, Pinchbeck, Ridge, Ridgefield, Rollingwood, Sadler, Skipwith, Spottswood, Staples Mill, Stoney Run, Summit Court, Three Chopt, Tuckahoe, Tucker, West End, and Westwood Precincts are in the Seventh Congressional District. The balance of Henrico County is in the Third Congressional District.

"Isle of Wight County: The Camps Mill, Carrsville, Orbit, Walters, and Windsor Precincts are in the Fourth Congressional District. The balance of Isle of Wight County is in the Third Congressional District.

"City of Hampton: The Booker, Burbank, Forrest, Fox Hill, Kecoughtan, Kraft, Langley,

Northampton, Phillips, Syms, and Tucker Capps Precincts are in the First Congressional District. The balance of the City of Hampton is in the Third Congressional District.

"City of Newport News: The Beaconsdale, Bland, Boulevard, Charles, Christopher Newport, Deep Creek, Hidenwood, Hilton, Jenkins, Oyster Point, Palmer, Richneck, Riverside, Riverview, Sanford, Saunders, Sedgefield, South Morrison, Warwick, Watkins, and Yates Precincts are in the First Congressional District. The balance of the City of Newport News is in the Third Congressional District.

"City of Norfolk: The Ballentine, Bowling Park, Brambleton, Coleman Place School, Crossroads, Hunton Y, Immanuel, Lafayette Library, Lafayette Presbyterian, Lafayette-Winona, Lindenwood, Maury, Monroe, Northside, Norview Methodist, Norview Recreation Center, Ocean View School, Park Place, Rosemont, Sherwood School, Stuart, Therapeutic Center, Union Chapel, and Young Park Precincts are in the Third Congressional District. The balance of the City of Norfolk is in the Second Congressional District.

"City of Richmond: Precincts 101, 102, 103, 104, 105, 106, 111, 112, 404, 409, 410, 411, 412, and 413 are in the Seventh Congressional District. The balance of the City of Richmond is in the Third Congressional District."

Acts 1998, c. 1, cl. 3 provides: "That this act implements the General Assembly's responsibilities for decennial redistricting and is in force from its passage [February 11, 1998] pursuant to Article II, Section 6, of the Constitution of Virginia."

Law Review. — For article, "The Virginia Legislative Reapportionment Case: Reapportionment Issues of the 1980's," see 5 Geo. Mason L. Rev. 1 (1982). For an article, "Redistricting in the Post-2000 Era," see 8 Geo. Mason L. Rev. 431 (2000). For an article, "Down For the Count: The Constitutional, Political and Policy Related Problems of Census Sampling," see 8 Geo. Mason L. Rev. 477 (2000).

Editor's note. — Most of the cases cited below were decided under former law corresponding to this section.

It is the duty of the General Assembly to reapportion the congressional districts of Virginia so that each district shall be composed of contiguous and compact territory, containing as nearly as practicable an equal number of inhabitants, and, so far as can be done without impairing the essential requirement of substantial equality in the number of inhabitants among the districts, give effect to the community of interest within the districts. *Wilkins v. Davis*, 205 Va. 803, 139 S.E.2d 849 (1965).

Any plan of districting which is not based upon approximate equality of inhabitants will work inequality in right of suffrage and of power in elections of the repre-

sentatives in Congress. *Wilkins v. Davis*, 205 Va. 803, 139 S.E.2d 849 (1965).

Certification of congressional candidates only for election at large from State. — Because 2 U.S.C. § 2c requires that each state establish a number of districts equal to the number of congressional representatives to which such state is entitled, and that “Representatives shall be elected only from districts so

established . . .,” the Supreme Court cannot legally issue a peremptory writ of mandamus requiring the State Board of Elections to certify congressional candidates only for election at large from the State. *Simpson v. Mahan*, 212 Va. 416, 185 S.E.2d 47 (1971).

Applied in *Moon v. Meadows*, 952 F. Supp. 1141 (E.D. Va. 1997).

§ 24.2-303: Repealed by Acts 2001, Sp. Sess. I, c. 2.

Cross references. — As to Senatorial districts, see now § 24.2-303.1.

Editor’s note. — The repeal of this section is

subject to preclearance by the Department of Justice, pursuant to § 5 of the federal Voting Rights Act.

§ 24.2-303.1. **Senatorial districts.** — A. There shall be forty members of the Senate of Virginia elected from forty senatorial districts and each district is entitled to representation by one senator.

B. All references in this section to boundaries of counties and cities shall be interpreted to refer to those in existence on April 1, 2001, and as reported by the United States Bureau of the Census in the 2000 Census reports provided pursuant to United States Public Law §§ 94-171, notwithstanding subsequent boundary changes by law, annexation, merger, consolidation, or the voiding of boundary changes theretofore made final.

C. Parts of counties and cities listed in subsection D are defined by reference to the 2000 Census reports for the precincts, parts of precincts, and blocks listed for each senatorial district in the Statistical Report for enrolled Senate Bill 1 on file with the Clerk of the Senate.

D. The forty senatorial districts are:

First. All of the City of Poquoson; part of York County comprised of the Coventry, Tabb, and Bethel Precincts; part of the City of Hampton comprised of the Syms, Booker, Buckroe, Burbank, Fox Hill, and Phillips Precincts and part of the Langley Precinct; and part of the City of Newport News comprised of the Denbigh, Epes, Jenkins, Oyster Point, Richneck, Windsor, Bland, Boulevard, Charles, Christopher Newport, Deep Creek, Watkins, Grissom, Hidenwood, Hilton, Palmer, Riverside, Sanford, Saunders, Warwick, Yates, Riverview, Kiln Creek, Beaconsdale, and Sedgefield Precincts.

Second. Part of the City of Hampton comprised of the Aberdeen, Bassette, City Hall, Cooper, East Hampton, LaSalle, Lee, Pembroke, Phenix, Phoebus, River, Smith, Tarrant, Wythe, Forrest, Jones, Kecoughtan, Kraft, Magruder, Mallory, Northampton, Tucker Capps, and Tyler Precincts and part of the Langley Precinct; part of the City of Newport News comprised of the Briarfield, Carver, Chestnut, Downtown, Dunbar, Huntington, Jefferson, Magruder, Marshall, New Market, Newsome Park, Reed, River, South Morrison, Washington, and Wilson Precincts; part of the City of Portsmouth comprised of the Thirty-Seven/Thirty-Eight Precinct; and part of the City of Suffolk comprised of the Harbour View Precinct.

Third. All of Gloucester, James City, and New Kent Counties; all of the City of Williamsburg; part of York County comprised of the Queens Lake, Yorktown, Waller Mill, Nelson, Magruder, Seaford, Harris Grove, Edgehill, Dare, and Harwoods Mill Precincts; and part of the City of Newport News comprised of the McIntosh, Reservoir, Lee Hall, and Nelson Precincts.

Fourth. All of Caroline, Essex, Hanover, King and Queen, King William, and Middlesex Counties; and part of Spotsylvania County comprised of the Partlow, Blaydes Corner, Travelers Rest, Summit, and Battlefield Precincts.

Fifth. Part of the City of Chesapeake comprised of the Crestwood, Georgetown, Oaklette, South Norfolk Fire Station, Carver School, and Provi-

dence Church of Christ Precincts; part of the City of Norfolk comprised of the Canterbury, Ghent Square, Immanuel, Lafayette Library, Lafayette Presbyterian, Lambert's Point, Larchmont Library, Larchmont Recreation Center, Maury, Ohel Sholom, Park Place, St. Andrews, Stuart, Ballentine, Tanner's Creek, Bowling Park, Coleman Place School, Lafayette-Winona, Lindenwood, Monroe, Norview Methodist, Norview Recreation Center, Rosemont, Sherwood School, Union Chapel, Berkley, Brambleton, Campostella, Chesterfield, Coleman Place Presbyterian, Easton, Fairlawn, Hunton Y, Ingleside, Poplar Halls, Young Park, Sherwood Rec Center Part 1, and Sherwood Rec Center Part 2 Precincts; and part of the City of Virginia Beach comprised of the College Park, Sherry Park, and Baker Precincts.

Sixth. All of Accomack, Mathews, and Northampton Counties; part of the City of Norfolk comprised of the Granby, Northside, Titustown Center, Tucker House, Zion Grace, Crossroads, Suburban Park, Therapeutic Center, Wesley, Willard, Azalea Gardens, Barron Black, Houston, Bayview School, Bayview United, East Ocean View, Larrymore, Little Creek, Ocean View School, Oceanair, Tarrallton, Third Presbyterian, Ocean View Center Part 1, and Ocean View Center Part 2 Precincts; and part of the City of Virginia Beach comprised of parts of the Lake Smith, Bayside, and Chesapeake Beach Precincts.

Seventh. Part of the City of Virginia Beach comprised of the Kingston, Mt. Trashmore, Malibu, Old Donation, Aragona, Ocean Park, Thoroughgood, Davis Corner, Point O' View, Arrowhead, Larkspur, Providence, Thalia, Witchduck, Pembroke, Bonney, Brandon, Bellamy, Centerville, Stratford Chase, Homestead, Shannon, Meadows, Forest, Colonial, Shell, Round Hill, and Woodstock (25)/Fairfield (26) Precincts and parts of the Lake Smith, Bayside, Chesapeake Beach, Little Neck, and Rosemont Forest Precincts.

Eighth. Part of the City of Virginia Beach comprised of the North Beach, South Beach, Linkhorn, Alanton, London Bridge, Cape Henry, Plaza, Holland, Capps Shop, Windsor Oaks, Kings Grant, Wolfsnare, Lynnhaven, Oceana, Magic Hollow, Landstown, Hunt, Eastern Shore, Hilltop, Strawbridge, Ocean Lakes (3)/Red Wing (30)/Sigma (31)/Culver (63), Seatack (5)/Rudee (72), and Trantwood (9)/Great Neck (10) Precincts and parts of the Courthouse and Little Neck Precincts.

Ninth. All of Charles City County; part of Henrico County comprised of the Brookland, Adams, Azalea, Brook Hill, Central Gardens, Chamberlayne, East Highland Park, Fairfield, Glen Lea, Greenwood, Highland Gardens, Hungary, Longdale, Ratcliffe, Upham, Wilkinson, Yellow Tavern, Maplewood, Landmark, Cedar Fork, Chickahominy, Donahoe, Eanes, Elko, Fairmount, Glen Echo, Highland Springs, Laburnum, Masonic, Town Hall, Montrose, Pleasants, Sandston, Seven Pines, Sullivans, Mehfoud, Whitlocks, Nine Mile, Dorey, and Antioch Precincts; and part of the City of Richmond comprised of the 206, 208, 211, 212, 213, 301, 302, 303, 304, 305, 306, 307, 308, 402, 403, 404, 412, 501, 502, 503, 504, 505, 508, 602, 603, 604, 606, 607, 608, 701, and 909 Precincts.

Tenth. All of Amelia and Powhatan Counties; part of Chesterfield County comprised of the Skinquarter, Tomahawk, Evergreen, Woolridge, Brandermill, Smoketree, Monacan, Reams, Huguenot, Crestwood, Midlothian, Robious, Bon Air, Greenfield, Salisbury, Cranbeck, Sycamore, Shenandoah, Beaufont, Watkins, and Belgrade 508/Black Heath 511 Precincts; part of Cumberland County comprised of the Precinct 1-1, Precinct 1-2, Precinct 2, and Precinct 3 Precincts and part of the Precinct 4 Precinct; part of Goochland County comprised of the Fife, Hadensville, Three Square, Sandy Hook, and Goochland Court House Precincts; part of Henrico County comprised of the Monument Hills Precinct; and part of the City of Richmond comprised of the 101, 102, 103, 104, 105, 106, 111, 112, 113, 114, 203, 204, 207, 409, 410, 411, and 413 Precincts.

Eleventh. All of the City of Colonial Heights; and part of Chesterfield County comprised of the South Chester, North Chester, Harrowgate, Wells, Ecoff, Iron Bridge, Gates, Beulah, Bird, Jacobs, Falling Creek, Belmont, Chippenham, Meadowbrook, Salem Church, Five Forks, Ettrick, Deer Run, Matoaca, Winfrees Store, Beach, Winterpock, Walthall, Branches, Bailey Bridge, Spring Run, Pocahontas 307/Crenshaw 308, Genito, Providence, Lyndale, Manchester, Wagstaff, Davis, and Harbour Pointe 401/Swift Creek 411 Precincts.

Twelfth. Part of Goochland County comprised of the Centerville and Manakin Precincts; part of Henrico County comprised of the Dumbarton, Glen Allen, Glenside, Greendale, Hermitage, Hilliard, Hunton, Johnson, Lakeside, Longan, Maude Trevvett, Moody, Staples Mill, Stratford Hall, Summit Court, Bloomingdale, Canterbury, Randolph, Chipplegate, Cardinal, Coalpit, Crestview, Freeman, Innsbrook, Jackson Davis, Lauderdale, Ridge, Sadler, Cedarfield, Skipwith, Three Chopt, Tucker, Westwood, Causeway, Stoney Run, Byrd, Lakewood, Derbyshire, Gayton, Godwin, Maybeury, Mooreland, Pemberton, Pinchbeck, Ridgefield, Rollingwood, Spottswood, Tuckahoe, and West End Precincts; and part of the City of Richmond comprised of the 309 Precinct.

Thirteenth. All of Surry County; part of Isle of Wight County comprised of the Smithfield, Carrolton, Rushmere, Pons, Courthouse, Windsor, Orbit, Walters, Carrsville, and Zuni Precincts; part of Prince George County comprised of the Templeton, Blackwater, Brandon, Courts Bldg, and Bland Precincts; part of Southampton County comprised of the Berlin, Ivor, Sebrell, Hunterdale, Courtland, and Sedley Precincts; part of the City of Chesapeake comprised of the Churchland, Jolliff One, Fellowship Baptist Church, Silverwood, Taylor Road Fire Station, Bailey Creek, and Nansemond Precincts; part of the City of Franklin comprised of the Precinct 1-1, Precinct 2-1, and Precinct 6-1 Precincts; part of the City of Hopewell comprised of the Ward 2, Ward 3, Ward 4, Ward 5, and Ward 1 Precincts; part of the City of Portsmouth comprised of the Ten, Twenty-Three, Twenty-Four, Twenty-Five, Twenty-Nine, Thirty, Thirty-One, Thirty-Two, Thirty-Three, Thirty-Four, Thirty-Five, and Thirty-Six Precincts; and part of the City of Suffolk comprised of the Yeates, Driver, Ebenezer, Chuckatuck, King's Fork, Kilby's Mill, Holland, Lakeside, Elephant's Fork, Nansemond River, and Lake Meade Precincts.

Fourteenth. Part of the City of Chesapeake comprised of the Great Bridge, Bethel, Deep Creek, Greenbrier, Bells Mill, Geneva Park, Gilmerton, B. M. Williams School, Hickory Grove, Indian Creek, Indian River, Norfolk Highlands, Oak Grove, Tanglewood, Westover, Hickory Middle School, Great Bridge Middle School, Bridgetown, Lake Drummond, River Birch, John T. West, Parkways, Pleasant Crossing, Bells Mill II, Green Sea, Grassfield Part 1, and Grassfield Part 2 Precincts; and part of the City of Virginia Beach comprised of the Creeds, Blackwater, Timberlake, Green Run, Salem, Glenwood, and Dahlia Precincts and parts of the Courthouse and Rosemont Forest Precincts.

Fifteenth. All of Appomattox, Charlotte, Fluvanna, Halifax, Mecklenburg, and Prince Edward Counties; part of Amherst County comprised of the Wright Shop, New Glasgow, and Courthouse Precincts and part of the Temperance Precinct; part of Brunswick County comprised of the Brodnax, Rock Store, Tillman, and Dromgoole Precincts; part of Buckingham County comprised of the New Canton, White Hall, Curdsville, New Store, Maysville, Wrights, Slate River, and Gold Hill Precincts; part of Cumberland County comprised of the Precinct 5 Precinct and part of the Precinct 4 Precinct; and part of Lunenburg County comprised of the Plymouth, Brown's Store, McCoy Ghee's Store, Arrowhead Gun Club, Pleasant Grove, Reedy Creek, Peoples Community Center, Meherrin Fire Dept, and Courthouse Precincts.

Sixteenth. All of Dinwiddie County; all of the City of Petersburg; part of Chesterfield County comprised of the Bellwood, Enon, Drewry's Bluff, Point of

Rocks, and Dutch Gap Precincts; part of Prince George County comprised of the Richard Bland College, Union Branch, Rives, and Jefferson Park Precincts; part of the City of Hopewell comprised of the Ward 6 and Ward 7 Precincts; and part of the City of Richmond comprised of the 509, 510, 609, 610, 702, 703, 704, 705, 706, 707, 802, 806, 807, 810, 811, 812, 813, 902, 903, 906, 908, 910, and 911 Precincts.

Seventeenth. All of Culpeper, Louisa, Madison, and Orange Counties; part of Spotsylvania County comprised of the Grange Hall, Maury, Plank Road, Frazers Gate, Belmont, Brokenburg, Todd's Tavern, Holbert, Salem, and Brent's Mill Precincts; and part of the City of Fredericksburg comprised of the District 1, District 3, and District 4 Precincts and part of the District 2 Precinct.

Eighteenth. All of Greensville, Nottoway, and Sussex Counties; all of the City of Emporia; part of Brunswick County comprised of the Edgerton, Fitzhugh, Alberta, Danieltown, Elmore, Seymour, Sturgeon, King's Store, and Lawrenceville Precincts; part of Isle of Wight County comprised of the Camps Mill Precinct; part of Lunenburg County comprised of the Parham's Store and Hound's Creek Precincts; part of Southampton County comprised of the Boykins, Branchville, Capron, Drewryville, Forks-of-the-River, Blackwater River, and Newsoms Precincts; part of the City of Chesapeake comprised of the Camelot, Oscar Smith School, E. W. Chittum School, St. Julians, Johnson Park, Sunray I, Sunray II, and South Norfolk Recreation Precincts; part of the City of Franklin comprised of the Precinct 3-1, Precinct 4-1, and Precinct 5-1 Precincts; part of the City of Portsmouth comprised of the One, Five, Seven, Nine, Eleven, Thirteen, Fourteen, Sixteen, Seventeen, Nineteen, Twenty, Twenty-One, Twenty-Two, Twenty-Six, Twenty-Seven, and Twenty-Eight Precincts; and part of the City of Suffolk comprised of the White Marsh, John F. Kennedy, Cypress Chapel, Airport, Whaleyville, Holy Neck, Olde Towne, and Hollywood Precincts.

Nineteenth. All of Franklin and Pittsylvania Counties; all of the City of Danville; and part of Campbell County comprised of the Courthouse, Morris Church, Brookneal, Gladys, Staunton River, Altavista, Lynch Station, and Yellow Branch Precincts and part of the Evington Precinct.

Twentieth. All of Carroll, Floyd, Henry, and Patrick Counties; all of the Cities of Galax and Martinsville; part of Grayson County comprised of the Independence, Baywood, Fairview, Oldtown, Providence, Fries Part 1, and Fries Part 2 Precincts; and part of Wythe County comprised of the Royal Oak, Rural Retreat, Evansham, Pine Ridge, Spiller, Withers, Fort Chiswell, Max Meadows, Sheffey, Huddle, Zion, and Evergreen Precincts.

Twenty-first. All of Craig and Giles Counties; all of the City of Roanoke; part of Montgomery County comprised of the A-1, A-2, A-3, B-1, E-1, E-2, F-1, F-2, G-1, and G-2 Precincts; part of Pulaski County comprised of the Belspring Precinct; and part of Roanoke County comprised of the Catawba, Mason Valley, Northside, Peters Creek, Bennett Springs, Botetourt Springs, and Woodlands Precincts.

Twenty-second. All of Botetourt County; all of the Cities of Radford and Salem; part of Montgomery County comprised of the B-2, B-3, C-1, C-2, C-3, C-4, D-1, D-2, D-3 Part 1, D-4, and D-5 Precincts; part of Roanoke County comprised of the Glenvar, Green Hill, Plantation, Burlington, Mountain View, Bonsack, Hollins, Bent Mountain, Poages Mill, Windsor Hills, Garst Mill, Oak Grove 304/Castle Rock 305, North Vinton, South Vinton, Lindenwood, Mount Pleasant, Cotton Hill, Penn Forest, Cave Spring, Odgen, Clearbrook, Mount Vernon, and Hunting Hills Precincts; and Montgomery A.

Twenty-third. All of Bedford County; all of the Cities of Bedford and Lynchburg; part of Amherst County comprised of the Coolwell, Monroe, Elon, Pleasant View, Amelon, and Madison Precincts and part of the Temperance

Precinct; and part of Campbell County comprised of the Brookville, New London, White's Church, Bedford Springs, Walker, Concord, Kings, Airport, and Spring Hill Precincts and part of the Evington Precinct.

Twenty-fourth. All of Augusta, Greene, and Highland Counties; all of the Cities of Lexington, Staunton, and Waynesboro; part of Albemarle County comprised of the Crozet and Free Union Precincts; part of Rockbridge County comprised of the Highland Belle, Vo-Tech, Goshen, Meadowview, Rockbridge Baths, and Rockbridge Precincts; and part of Rockingham County comprised of the Keezletown, Mill Creek, Massanetta Springs, Montezuma, Mt. Crawford, Grottoes, North River, Elkton, Swift Run, McGaheysville, and South Fork Precincts.

Twenty-fifth. All of Alleghany, Bath, and Nelson Counties; all of the Cities of Buena Vista, Charlottesville, Clifton Forge, and Covington; parts of Albemarle County comprised of the Woodbrook, Commonwealth, Branchlands, Agnor-Hurt, Jack Jouett, University Hall, Ivy, East Ivy, North Garden 302/Batesville 303, Scottsville, Monticello, Porter's, Covesville, Cale, Keswick, Stony Point, Hollymead, Free Bridge, and Earlysville Precincts; part of Buckingham County comprised of the Glenmore Precinct; and part of Rockbridge County comprised of the Airport, Ben Salem, Fancy Hill, Effinger, Collierstown, Glasgow, Natural Bridge, Fairfield, Mountain View, and Vesuvius Precincts.

Twenty-sixth. All of Page, Rappahannock, Shenandoah, and Warren Counties; all of the City of Harrisonburg; and part of Rockingham County comprised of the Broadway, Timberville, Fulks Run, Bergton, Lacey Spring, Singers Glen, Edom, Melrose, Tenth Legion, Dayton, Turner Ashby (Silver Lake), Ottobine, Mt. Clinton, and Bridgewater Precincts.

Twenty-seventh. All of Clarke and Frederick Counties; all of the City of Winchester; part of Fauquier County comprised of the Kettle Run, Casanova, Warrenton, Baldwin Ridge, Remington, Opal, Marshall, Leeds, Waterloo, Upperville, The Plains, New Baltimore, and Broad Run Precincts; and part of Loudoun County comprised of the Middleburg, St. Louis, Purcellville, Round Hill, Hillsboro, Hamilton, Philomont, Lovettsville, Waterford, Lucketts, Between the Hills, Greenway, and Dry Mill Precincts and part of the Aldie Precinct.

Twenty-eighth. All of King George, Lancaster, Northumberland, Richmond, Stafford, and Westmoreland Counties; part of Fauquier County comprised of the Catlett, Lois, and Morrisville Precincts; part of Prince William County comprised of part of the Quantico Precinct; and part of the City of Fredericksburg comprised of part of the District 2 Precinct.

Twenty-ninth. All of the Cities of Manassas and Manassas Park; part of Prince William County comprised of the Brentsville, Armory, Nokesville, Parkside, Jackson, Linton Hall, Woodbine, Park, Saunders, Enterprise, Coles, King, Dumfries, Graham Park, Pattie, Washington-Reid, Montclair, Evergreen, Haymarket, Loch Lomond, Sinclair, Stonewall, Sudley, Westgate, Catharpin, Bull Run, Plantation, Mullen, and Kerrydale Precincts and part of the Quantico Precinct.

Thirtieth. Part of Arlington County comprised of the Arlington, Aurora Hills, Crystal City, Hume, Columbia, Fairlington, Virginia Highlands, Abingdon, Fillmore, Claremont, Glebe, Oakridge, Arlington View, and Shirlington Precincts; part of Fairfax County comprised of the Mount Eagle, Belle Haven, Belleview, Huntington, Marlan, and Grosvenor Precincts and parts of the Groveton and Hayfield 406/Woodlawn 412/Fairfield 413 Precincts; and part of the City of Alexandria comprised of the Annie B. Rose House, City Hall, Lyles Crouch School, Jefferson Houston School, Lee Center, Cora Kelly Center, Mt. Vernon Recreation Center, George Washington School, George Mason School, Agudas Achim Synagogue, Temple Beth El Synagogue, Maury School 201/Blessed Sacrament Church 204, and Second Presbyterian 205/Howard 9th Grade Center 206 Precincts.

Thirty-first. All of the City of Falls Church; part of Arlington County comprised of the Ashton Heights, Ballston, Barcroft, Cherrydale, Wilson, East Falls Church, Glen Carlyn, Clarendon, Lyon Park, Lyon Village, Overlee Knolls, Park Lane, Rosslyn, Thrifton, Westover, Woodlawn, Arlington Forest, Jefferson, Dominion Hills, Lexington, Rock Spring, Yorktown, Madison, Marshall, Nottingham, Ashlawn, Virginia Square, and Woodbury Precincts; and part of Fairfax County comprised of the Baileys, Barcroft, Glen Forest, Holmes, Ravenwood, Willston, Skyline, and Fort Buffalo Precincts.

Thirty-second. Part of Fairfax County comprised of the Reston #1, Reston #2, Dogwood, Hunters Woods, Reston #3, Glade, South Lakes, Terraset, North Point, Aldrin, Chain Bridge, Chesterbrook, Churchill, Cooper, El Nido, Great Falls, Haycock, Kenmore, Kirby, Langley, Longfellow, Mclean, Pimmit, Salona, Westhampton, Westmoreland, Herndon #1, Herndon #2, Clearview, Forestville, Herndon #3, Hutchison, Stuart, Sugarland, Hickory, Seneca, Marshall, Magarity, and Tysons Precincts.

Thirty-third. Part of Fairfax County comprised of the Fox Mill, Floris 203/Frying Pan 235, Franklin, Kinross, Navy, and Lees Corner Precincts; and part of Loudoun County comprised of the Sanders Corner, Ashburn Farm, Guilford, Forest Ridge, Simpson, Arcola, Balls Bluff, West Leesburg, East Leesburg, Oakcrest, Sugarland North, Sugarland South, Seneca, Lowes Island, Sully, Park View, Rolling Ridge, Farmwell Station, Algonkian, Ashburn Village, Potomac, and Cascades Precincts and part of the Aldie Precinct.

Thirty-fourth. All of the City of Fairfax; part of Fairfax County comprised of the Olde Creek, Oak Hill, Lake Braddock, Laurel, Villa, Long Branch, Robinson, Olley, Signal Hill, Colvin, Flint Hill, Vienna #1, Vienna #2, Vienna #4, Vienna #6, Westbriar, Wolftrap, Sunrise Valley, Shouse, Hummer, Camelot, Ridgelea, Blake, Freedom Hill, Mantua, Mosby, Price, Walker, Pine Ridge, Stenwood, Thoreau, Oakton, Nottoway, Penderbrook, Oak Marr, Vale, Waples Mill, Woodson Part 1, and Woodson Part 2 Precincts; and Fairfax A.

Thirty-fifth. Part of Fairfax County comprised of the Bristow, Chapel, Heritage, Kings Park, North Springfield #1, North Springfield #2, North Springfield #3, Ravensworth, Wakefield, Belvedere, Lincolnia, Masonville, Parklawn, Sleepy Hollow, Saint Albans, Westlawn, Weyanoke, Columbia, Brook Hill, Poe, Whittier, Walnut Hill #1, Bren Mar, Edsall, Graham, Greenway, Pine Spring, Shreve, Timber Lane, Woodburn, Merrifield, and Walnut Hill #2 Precincts; and part of the City of Alexandria comprised of the Hermitage, Southern Towers-Stratford, James K. Polk School, Patrick Henry School, Landmark Center, Charles E. Beatley Jr. Library, John Adams School, William Ramsay School, and South Port Precincts.

Thirty-sixth. Part of Fairfax County comprised of the Virginia Hills, Vilages, Bucknell, Fort Hunt, Hollin Hall, Kirkside, Sherwood, Stratford, Waynewood, Westgate, Whitman, Woodley, Gunston, Belvoir, and Pohick Run Precincts and parts of the Groveton and Hayfield 406/Woodlawn 412/Fairfield 413 Precincts; and part of Prince William County comprised of the Lodge, Potomac, Henderson, Occoquan, Bethel, Chinn, Dale, Neabsco, Godwin, Civic Center, Minnieville, Bel Air, Belmont, Library, Lynn, Featherstone, Potomac View, Rippon, and Kilby Precincts.

Thirty-seventh. Part of Fairfax County comprised of the Fairview, Sideburn, Bonnie Brae, Burke, Pohick, Valley, Orange, Cherry Run, Terra Centre, White Oaks, Burke Centre, Sangster, Popes Head, Parkway, Centre Ridge, Chantilly, Dulles, Greenbriar East, Greenbriar West, Leehigh, London Towne, Rocky Run, Virginia Run, Centreville, Green Trails, Deer Park, Willow Springs, and Cub Run 903/Stone 917 Precincts.

Thirty-eighth. All of Bland, Buchanan, Dickinson, Russell, and Tazewell Counties; part of Pulaski County comprised of the New River, West Cloyd, Draper, South Pulaski, Newbern, Dublin, Hiwasee 302/Snowville 304, Massie,

Walker, and Robinson Precincts; part of Smyth County comprised of the Saltville and Rich Valley Precincts; part of Wise County comprised of the Appalachia, Dorchester, Guest River, West Pound, East Pound, and St. Paul Precincts; and part of Wythe County comprised of the Jackson Memorial Precinct.

Thirty-ninth. Part of Fairfax County comprised of the Bush Hill, Cameron, Franconia, Pioneer, Rose Hill, Crestwood, Garfield, Lynbrook, Beulah, Kingstowne, Van Dorn, Lorton, Newington, Delong, Cardinal, Clifton, Fairfax Station, Keene Mill, Woodyard, Irving, Saratoga, Hunt, Silverbrook, West Springfield, and Newgate Precincts; and part of Prince William County comprised of the Buckhall, McCoart, Springwoods, Westridge, Lake Ridge, Old Bridge, Rockledge, and Mohican Precincts.

Fortieth. All of Lee, Scott, and Washington Counties; all of the Cities of Bristol and Norton; part of Grayson County comprised of the Bridle Creek, Flatridge, Grant, Mouth Of Wilson, Mount Rogers, Rugby, Troutdale, Comers Rock, and Elk Creek Precincts; part of Smyth County comprised of the Seven Mile Ford, Chilhowie, St. Clair, East Park, West Park, Atkins, Wassona, Royal Oak East, Royal Oak West, Adwolfe, Sugar Grove, and Konnarock Precincts; and part of Wise County comprised of the North Coeburn, Wise, Big Stone Gap, East Stone Gap, Clinch Valley, and South Coeburn Precincts. (2001, Sp. Sess. I, c. 2.)

Cross references. — For constitutional provision as to number of senators, see Va. Const., Art. IV, § 2. For constitutional provision as to apportionment of State into senatorial and house districts, see Va. Const., Art. II, § 6.

Editor's note. — This section is subject to preclearance by the Department of Justice, pursuant to § 5 of the federal Voting Rights Act.

Law Review. — For article, "The Role of Federal Courts in the Reapportionment of State Legislatures," see 24 Wash. & Lee L. Rev. 227 (1967). For article, "The Virginia Legislative Reapportionment Case: Reapportionment Issues of the 1980's" see 5 Geo. Mason L. Rev. 1 (1982).

Fifth, sixth and seventh districts combined in one multimember district by federal court. — In the establishment of the fifth, sixth and seventh districts under former § 24.1-14.1, all naval personnel "homeported" at the U.S. Naval Station, Norfolk, about 36,700 persons, were assigned to the fifth district because that is where they were counted on official census tracts. It was undisputed that only about 8,100 of such personnel lived aboard

vessels, and there was evidence that about 18,000 lived outside the fifth district but within the Norfolk and Virginia Beach areas. The federal district court, in *Mahan v. Howell*, 330 F. Supp. 1138 (E.D. Va. 1971), justifiably found that this legislative plan resulted in both significant population disparities and the assignment of military personnel to districts in which they admittedly did not reside. Since discriminatory treatment of military personnel in legislative reapportionment is constitutionally impermissible, the district court did not abuse its discretion in prescribing an interim plan of combining the fifth, sixth and seventh districts into one multimember district. *Mahan v. Howell*, 410 U.S. 315, 93 S. Ct. 979, 35 L. Ed. 2d 320, modified, 411 U.S. 922, 93 S. Ct. 1475, 36 L. Ed. 2d 316 (1973) (decided under former § 24.1-14.1).

General Assembly's 1991 Reapportionment Act did not violate the compactness requirements of Va. Const., Art. II, § 6, in fixing the boundary lines of the 15th and 18th Senatorial Electoral Districts. *Jamerson v. Womack*, 244 Va. 506, 423 S.E.2d 180 (1992) (decided under former § 24.2-303.1).

§ 24.2-304: Repealed by Acts 2001, Sp. Sess. I, c. 1.

Cross references. — As to House of Delegates districts, see now § 24.2-304.01.

Editor's note. — The repeal of this section is

subject to preclearance by the Department of Justice, pursuant to § 5 of the federal Voting Rights Act.

§ 24.2-304.01. House of Delegates districts. — A. There shall be 100 members of the House of Delegates elected from 100 House of Delegates districts and each district is entitled to representation by one delegate.

B. All references in this section to boundaries of counties and cities shall be interpreted to refer to those in existence on April 1, 2001, and as reported by the United States Bureau of the Census in the 2000 Census reports provided pursuant to United States Public Law §§ 94-171, notwithstanding subsequent boundary changes by law, annexation, merger, consolidation, or the voiding of boundary changes theretofore made final.

C. Parts of counties and cities listed in subsection D are defined by reference to the 2000 Census reports for the precincts, parts of precincts, and blocks listed for each House of Delegates district in the amended Statistical Report for the House Bill 1 Senate Committee Amendment in the Nature of a Substitute (Line Amendment Northampton Precinct Plan 175) LD 0278796 on file with the Clerk of the House of Delegates.

D. The 100 House of Delegates districts are:

First. All of Lee and Scott Counties; part of Washington County comprised of the Burson Place, Mendota, Valley Institute, Wallace Part 3, and Wallace Part 1 Precincts and part of the Greendale Precinct; and part of Wise County comprised of the Big Stone Gap, East Stone Gap, and Clinch Valley Precincts.

Second. All of Dickenson County; all of the City of Norton; part of Russell County comprised of the Copper Creek, Moccasin, South Castlewood, Cleveland, Dante, North Castlewood, Cooks Mill, Daughertys, Elk Garden, and Lebanon Precincts and part of the Honaker Precinct; and part of Wise County comprised of the Appalachia, Dorchester, Guest River, West Pound, North Coeburn, Wise, East Pound, South Coeburn, and St. Paul Precincts.

Third. All of Buchanan County; part of Russell County comprised of the Drill and Swords Creek Precincts and part of the Honaker Precinct; and part of Tazewell County comprised of the Tip Top, Amonate, Bishop, Adria, Gap Store, Bandy, Abbs Valley 101/Boissevain 103/Falls Mills 104/Pocahontas 106, Burkes Garden, Clear Fork, Freestone, Jeffersonville, Thompson Valley, Cedar Bluff, Baptist Valley, Wardell, Pounding Mill, Richlands, Jewell Ridge, and Raven Precincts.

Fourth. All of the City of Bristol; part of Smyth County comprised of the Saltville, Chilhowie, St. Clair, and Konnarock Precincts; and part of Washington County comprised of the East Abingdon, West Abingdon, Clinchburg, Hayter's Gap, Watauga, South Abingdon, Glade Spring, Meadowview, Rhea 501/Damascus 502/Green Cove 503, High Point 701/John Battle 703, and Wallace Part 2 Precincts and part of the Greendale Precinct.

Fifth. All of Grayson County; all of the City of Galax; part of Carroll County comprised of the Hillsville C, Sylvatus, Vaughn, Woodlawn E, and Laurel Precincts; part of Smyth County comprised of the Seven Mile Ford, Rich Valley, East Park, West Park, Atkins, Wassona, Royal Oak East, Royal Oak West, Adwolfe, and Sugar Grove Precincts; and part of Wythe County comprised of the Rural Retreat, Fort Chiswell, Jackson Memorial, Sheffey, Huddle, and Zion Precincts and part of the Evergreen Precinct.

Sixth. All of Bland County; part of Giles County comprised of the Glen Lyn, Rich Creek, Narrows, Pearisburg, Staffordsville, White Gate, Sugar Run, Eggleston, Pembroke, and Hatfield Precincts; part of Pulaski County comprised of the Belspring, New River, West Cloyd, Draper, South Pulaski, Newbern, Massie, Walker, and Robinson Precincts; part of Tazewell County comprised of the Springville and Graham Precincts; and part of Wythe County comprised of the Royal Oak, Evansham, Pine Ridge, Spiller, Withers, and Max Meadows Precincts and part of the Evergreen Precinct.

Seventh. All of the City of Radford; part of Montgomery County comprised of the B-2, B-3, C-1, C-2, C-3, C-4, D-1, D-2, D-3 Part 1, D-4, D-5, E-1, and E-2 Precincts; part of Pulaski County comprised of the Dublin and Hiwasee 302/Snowville 304 Precincts; and Montgomery A.

Eighth. All of the City of Salem; and part of Roanoke County comprised of the Catawba, Mason Valley, Glenvar, Northside, Peters Creek, Green Hill,

Bennett Springs, Botetourt Springs, Woodlands, Bent Mountain, Poages Mill, Windsor Hills, Garst Mill, Oak Grove 304/Castle Rock 305, Cotton Hill, Penn Forest, Cave Spring, and Mount Vernon Precincts.

Ninth. All of Floyd and Franklin Counties; and part of Pittsylvania County comprised of the Callands, Sandy Level, West Chatham, Gretna, and Bearskin Precincts.

Tenth. All of Patrick County; part of Carroll County comprised of the Mount Bethel, St Paul, Lambsburg 103/Oakland A 104, Hillsville B, Laurel Fork, Gladesboro, Hillsville E, Dugspur, Hillsville D, Oakland D, Fancy Gap, Gladeville, Woodlawn D Part 1, and Woodlawn D Part 2 Precincts; part of Henry County comprised of the Bassett 2, Gunville, Scott's Tanyard, Fieldale, Horsepasture, Spencer, Daniels Creek, Collinsville 2, Bassett 1, Oak Level, and Hillcrest Precincts; and part of the City of Martinsville comprised of Precinct #1 and Precinct #6.

Eleventh. Part of Roanoke County comprised of the North Vinton and South Vinton Precincts and part of the Lindenwood Precinct; and part of the City of Roanoke comprised of the Highland 1, Highland 2, Jefferson 1, Jefferson 2, Tinker, Williamson Road 1, Williamson Road 2, Williamson Road 4, Williamson Road 5, Peters Creek, Melrose, Eureka Park, Villa Heights, Washington Heights, Westside, Raleigh Court 1, Wasena, and Williamson Road 3 (12)/Lincoln Terrace (16) Precincts and part of the South Roanoke 1 Precinct.

Twelfth. All of Alleghany, Bath, and Craig Counties; all of the Cities of Clifton Forge and Covington; part of Giles County comprised of the Newport Precinct; and part of Montgomery County comprised of the A-1, A-2, A-3, B-1, F-1, F-2, G-1, and G-2 Precincts.

Thirteenth. Part of Loudoun County comprised of the Middleburg and Aldie Precincts and parts of the Arcola, Cascades, and Forest Ridge Precincts; and part of Prince William County comprised of the Brentsville, Armory, Buckhall, Nokesville, Jackson, Linton Hall, Woodbine, Evergreen, Haymarket, Catharpin, Bull Run, and Mullen Precincts and part of the Sinclair Precinct.

Fourteenth. All of the City of Danville; part of Henry County comprised of the Irisburg, Mount Olivet, Fontaine, and Ridgeway Precincts; and part of Pittsylvania County comprised of the Airport, Ringgold, Brosville, Bachelors Hall, and Ferry Road Precincts.

Fifteenth. All of Page, Rappahannock, and Shenandoah Counties; and part of Rockingham County comprised of the Swift Run Precinct.

Sixteenth. Part of Henry County comprised of the Axton, Mountain Valley, Collinsville 1, Mountain View, Figsboro, Stanleytown, and Dyers Store Precincts; part of the City of Martinsville comprised of Precinct #2, Precinct #3, Precinct #4, and Precinct #5; and part of Pittsylvania County comprised of the Mt. Hermon Fire Station, Chatham, Tunstall, Tightsqueeze, West Blairs, Central, Riceville, East Blairs, Mt. Airy, East Gretna, Keeling, Kentuck, Hurt, Motley Sycamore, Renan, Stony Mill, Swansonville, Whitmell, Mt. Hermon, Mt. Cross, and Spring Garden Precincts.

Seventeenth. Part of Botetourt County comprised of the Coyner Springs and Cloverdale Precincts; part of Roanoke County comprised of the Plantation, Burlington, Mountain View, Bonsack, Hollins, Mount Pleasant, Ogden, Clearbrook, and Hunting Hills Precincts and part of the Lindenwood Precinct; and part of the City of Roanoke comprised of the Jefferson-Riverdale, Williamson Road 6, Monterey, Raleigh Court 2, Raleigh Court 3, Raleigh Court 4, Raleigh Court 5, Fishburn Park, Grandin Court, South Roanoke 2, Lee-Hi, and Garden City Precincts and part of the South Roanoke 1 Precinct.

Eighteenth. All of Warren County; part of Fauquier County comprised of the Warrenton, Marshall, Leeds, Waterloo, Upperville, The Plains, and Broad Run Precincts and part of the Baldwin Ridge Precinct; and part of Frederick County comprised of the Cedar Creek, Stephens City, and Middletown Precincts.

Nineteenth. All of the City of Bedford; part of Bedford County comprised of the Stewartville, Hardy, Otter Hill, Cove, Big Island, Sedalia, Kelso, Boonsboro, Montvale, Shady Grove, Thaxton, Goode, Liberty High School, and Sign Rock Precincts and parts of the Forest and Jefferson Precincts; and part of Botetourt County comprised of the Amsterdam, Asbury, Town Hall, Blue Ridge, Rainbow Forest, Mill Creek, Roaring Run, Buchanan 301/Springwood 304, Courthouse, Eagle Rock, Glen Wilton, Oriskany, and Troutville Precincts.

Twentieth. All of Highland County; all of the City of Staunton; part of Augusta County comprised of the Jolivue, Expo, North River, Mount Solon, Churchville Fire Station, Buffalo Gap, Churchville School, Craigsville, Deerfield, Cedar Green, Greenville, and Stuarts Draft Precincts; and part of Rockingham County comprised of the Ottobine, Massanetta Springs, Bridgewater, Montezuma, Mt. Crawford, and North River Precincts.

Twenty-first. Part of the City of Virginia Beach comprised of the Mt. Trashmore, Malibu, Thalia, Windsor Oaks, Timberlake, Glenwood, Forest, Rosemont Forest, Round Hill, and Dahlia Precincts and parts of the Bellamy, Colonial, Little Neck, and Salem Precincts.

Twenty-second. All of Campbell County; and part of Bedford County comprised of the Chamblissburg, Staunton River, Moneta, Mountain View, New London, Walton's Store, White House, and Huddleston Precincts and parts of the Forest and Jefferson Precincts.

Twenty-third. All of the City of Lynchburg; and part of Amherst County comprised of the Wright Shop and Coolwell Precincts.

Twenty-fourth. All of Rockbridge County; all of the Cities of Buena Vista and Lexington; part of Amherst County comprised of the New Glasgow, Courthouse, Temperance, Monroe, Elon, Pleasant View, Amelon, and Madison Precincts; and part of Augusta County comprised of the Middlebrook, Spottswood, White Hill, and Sherando Precincts.

Twenty-fifth. All of the City of Waynesboro; part of Albemarle County comprised of the Crozet Precinct; part of Augusta County comprised of the Verona, Crimora, New Hope, Weyers Cave, Fort Defiance, Lyndhurst, Doods, Fishersville, and Wilson Precincts; and part of Rockingham County comprised of the Mill Creek, Grottoes, Elkton, McGaheysville, and South Fork Precincts.

Twenty-sixth. All of the City of Harrisonburg; and part of Rockingham County comprised of the Broadway, Timberville, Fulks Run, Bergton, Lacey Spring, Singers Glen, EDOM, Melrose, Keezletown, Tenth Legion, Dayton, Turner Ashby (Silver Lake), and Mt. Clinton Precincts.

Twenty-seventh. Part of Chesterfield County comprised of the Gates, Beulah, Bird, Jacobs, Falling Creek, Chippenham, Meadowbrook, Five Forks, Deer Run, Spring Run, Pocahontas 307/Crenshaw 308, Genito, Providence, and Lyndale Precincts and part of the Manchester Precinct.

Twenty-eighth. All of the City of Fredericksburg; and part of Stafford County comprised of the Garrisonville, Widewater, Aquia, Courthouse, Brooke, Grafton, Falmouth, Gayle, Ferry Farm, Chatham, and White Oak Precincts and part of the Simpson Precinct.

Twenty-ninth. All of the City of Winchester; and part of Frederick County comprised of the Russells, Gore, Kernstown, Gainesboro, Albin, Clearbrook, Neffstown, Carpers Valley, and Shenandoah Precincts.

Thirtieth. All of Culpeper and Madison Counties; and part of Orange County comprised of the One East, Two West, Two East, Three, Four, Locust Grove, and Lake of the Woods Precincts.

Thirty-first. Part of Fauquier County comprised of the Kettle Run, Catlett, Casanova, and New Baltimore Precincts and part of the Baldwin Ridge Precinct; and part of Prince William County comprised of the Park, Saunders, Enterprise, Coles, King, Lodge, Dale, Neabsco, Godwin, Minnieville, and Bel Air Precincts and parts of the Quantico and Washington-Reid Precincts.

Thirty-second. Part of Loudoun County comprised of the Sanders Corner, Ashburn Farm, Sugarland North, Sugarland South, Seneca, Lowes Island, Farmwell Station, Algonkian, Ashburn Village, and Potomac Precincts and part of the Cascades Precinct.

Thirty-third. All of Clarke County; and part of Loudoun County comprised of the Simpson, St Louis, Purcellville, Round Hill, Hillsboro, Hamilton, Philomont, Lovettsville, Waterford, Lucketts, Between The Hills, Greenway, Balls Bluff, West Leesburg, East Leesburg, Dry Mill, and Oakcrest Precincts.

Thirty-fourth. Part of Fairfax County comprised of the Colvin, Chain Bridge, Chesterbrook, Churchill, Cooper, El Nido, Great Falls, Kenmore, Langley, Salona, Clearview, Forestville, Shouse, Sugarland, Hickory, Seneca, Magarity, and Tysons Precincts.

Thirty-fifth. Part of Fairfax County comprised of the Flint Hill, Vienna #1, Vienna #2, Vienna #4, Vienna #6, Westbriar, Wolftrap, Blake, Freedom Hill, Oakton, Nottoway, Penderbrook, Oak Marr, Leehigh, and Vale Precincts.

Thirty-sixth. Part of Fairfax County comprised of the Reston #1, Reston #2, Dogwood, Hunters Woods, Reston #3, Glade, South Lakes, Terraset, Sunrise Valley, Fox Mill, North Point, Aldrin, and Kinross Precincts.

Thirty-seventh. All of the City of Fairfax; and part of Fairfax County comprised of the Olde Creek, Sideburn, Villa, Robinson, Bonnie Brae, Camelot, Ridgelea, Mantua, Mosby, Price, Pine Ridge, Woodson Part 1, and Woodson Part 2 Precincts; and Fairfax A.

Thirty-eighth. Part of Fairfax County comprised of the Barcroft, Belvedere, Lincolnia, Masonville, Parklawn, Ravenwood, Sleepy Hollow, Saint Albans, Westlawn, Weyanoke, Willston, Poe, Whittier, Bren Mar, Edsall, Fort Buffalo, Graham, and Greenway Precincts and parts of the Glen Forest and Holmes Precincts.

Thirty-ninth. Part of Fairfax County comprised of the Bristow, Chapel, Heritage, Kings Park, North Springfield #1, North Springfield #2, North Springfield #3, Oak Hill, Ravensworth, Wakefield, Long Branch, Olley, Crestwood, Garfield, Lynbrook, Columbia, Hummer, and Brook Hill Precincts.

Fortieth. Part of Fairfax County comprised of the Clifton, Fairfax Station, Popes Head, Centre Ridge, Newgate, Virginia Run, Centreville, Green Trails, Deer Park, and Willow Springs Precincts and part of the London Towne Precinct.

Forty-first. Part of Fairfax County comprised of the Fairview, Lake Braddock, Laurel, Signal Hill, Burke, Pohick, Orange, Cherry Run, Terra Centre, White Oaks, Burke Centre, and Parkway Precincts and parts of the Sangster and Woodyard Precincts.

Forty-second. Part of Fairfax County comprised of the Gunston, Lorton, Newington, Delong, Cardinal, Keene Mill, Valley, Irving, Saratoga, Hunt, Silverbrook, and West Springfield Precincts and parts of the Pohick Run, Sangster, and Woodyard Precincts.

Forty-third. Part of Fairfax County comprised of the Bush Hill, Franconia, Pioneer, Rose Hill, Virginia Hills, Beulah, Villages, Kingstowne, Van Dorn, and Belvoir Precincts and parts of the Cameron, Groveton, Hayfield 406/Woodlawn 412/Fairfield 413, Mount Eagle, and Pohick Run Precincts.

Forty-fourth. Part of Fairfax County comprised of the Belle Haven, Bucknell, Fort Hunt, Hollin Hall, Huntington, Sherwood, Stratford, Waynewood, Westgate, Whitman, and Woodley Precincts and parts of the Groveton, Hayfield 406/Woodlawn 412/Fairfield 413, and Mount Eagle Precincts.

Forty-fifth. Part of the City of Alexandria comprised of the Annie B. Rose House, City Hall, Lyles Crouch School, Jefferson Houston School, Lee Center, George Washington School, George Mason School, Agudas Achim Synagogue, Maury School 201/Blessed Sacrament Church 204, and Second Presbyterian 205/Howard 9th Grade Center 206 Precincts; part of Arlington County com-

prised of the Fairlington, Abingdon, and Shirlington precincts; and part of Fairfax County comprised of the Belleview, Kirkside, Marlan, and Grosvenor Precincts and parts of the Cameron and Mount Eagle Precincts.

Forty-sixth. Part of the City of Alexandria comprised of the Temple Beth El Synagogue, Hermitage, Southern Towers-Stratford, James K. Polk School, Patrick Henry School, Landmark Center, Charles E. Beatley Jr. Library, John Adams School, William Ramsay School, and South Port Precincts; and part of Fairfax County comprised of the Skyline Precinct.

Forty-seventh. Part of Arlington County comprised of the Ashton Heights, Ballston, Clarendon, Lyon Park, Overlee Knolls, Westover, Arlington Forest, Fillmore, Jefferson, Dominion Hills, Lexington, Arlington View, Ashlawn, Virginia Square, and Woodbury Precincts and parts of the Barcroft and Glen Carlyn Precincts.

Forty-eighth. Part of Arlington County comprised of the Aurora Hills, Crystal City, Cherrydale, Hume, Wilson, East Falls Church, Lyon Village, Park Lane, Rosslyn, Thrifton, Virginia Highlands, Woodlawn, Rock Spring, Yorktown, Madison, Marshall, and Nottingham Precincts.

Forty-ninth. Part of the City of Alexandria comprised of the Cora Kelly Center and Mt. Vernon Recreation Center Precincts; part of Arlington County comprised of the Arlington, Columbia, Claremont, Glebe, and Oakridge Precincts and parts of the Barcroft and Glen Carlyn Precincts; part of Fairfax County comprised of the Baileys Precinct and parts of the Glen Forest and Holmes Precincts.

Fiftieth. All of the Cities of Manassas and Manassas Park; and part of Prince William County comprised of the Parkside, Loch Lomond, Stonewall, Sudley, Westgate, and Plantation Precincts and part of the Sinclair Precinct.

Fifty-first. Part of Prince William County comprised of the McCoart, Springwoods, Westridge, Lake Ridge, Occoquan, Old Bridge, Rockledge, Mohican, Bethel, Chinn, Civic Center, Kerrydale, Lynn, and Kilby Precincts.

Fifty-second. Part of Prince William County comprised of the Dumfries, Potomac, Graham Park, Pattie, Henderson, Montclair, Belmont, Library, Featherstone, Potomac View, and Rippon Precincts and parts of the Quantico and Washington-Reid Precincts.

Fifty-third. All of the City of Falls Church; and part of Fairfax County comprised of the Haycock, Kirby, Longfellow, Mclean, Pimmit, Westhampton, Westmoreland, Walnut Hill #1, Marshall, Pine Spring, Shreve, Timber Lane, Walker, Woodburn, Stenwood, Thoreau, Merrifield, and Walnut Hill #2 Precincts.

Fifty-fourth. Part of Caroline County comprised of the Woodford Precinct; and part of Spotsylvania County comprised of the Travelers Rest, Maury, Summit, Frazers Gate, Belmont, Brokenburg, Todd's Tavern, Holbert, Salem, Battlefield, and Brent's Mill Precincts.

Fifty-fifth. Part of Hanover County comprised of the Ashland, South Ashland, Ashcake, Beaverdam, Blunts, Wilmington Parish, Goddin's Hill, Clay, Chickahominy, Shady Grove, Atlee, Cool Spring, Courthouse, Rural Point 502/Newman 503, Village, Mechanicsville, Farrington, Montpelier, Rockville, and Elmont Precincts.

Fifty-sixth. All of Goochland and Louisa Counties; and part of Henrico County comprised of the Lauderdale, Sadler, Causeway, Stoney Run, and West End Precincts.

Fifty-seventh. All of the City of Charlottesville; and part of Albemarle County comprised of the Commonwealth, Branchlands, Jack Jouett, University Hall, Ivy, and Free Bridge Precincts.

Fifty-eighth. All of Greene County; part of Albemarle County comprised of the Woodbrook, Agnor-Hurt, East Ivy, Scottsville, Monticello, Cale, Keswick, Stony Point, Hollymead, Free Union, and Earlysville Precincts; part of

Fluvanna County comprised of the Palmyra, Cunningham, and Rivanna Precincts; and part of Orange County comprised of the One West Precinct.

Fifty-ninth. All of Appomattox, Buckingham, Cumberland and Nelson Counties; part of Albemarle County comprised of the North Garden 302/Batesville 303, Porter's, and Covesville Precincts; part of Fluvanna County comprised of the Columbia and Fork Union Precincts; and part of Prince Edward County comprised of the Prospect Precinct and part of the Buffalo Heights Precinct.

Sixtieth. All of Charlotte and Halifax Counties; part of Nottoway County comprised of Precinct 1-1 and Precinct 3-1 Part 2; and part of Prince Edward County comprised of the Farmville, Lockett, Leigh, Hampden, Darlington Heights, West End, and Center Precincts and part of the Buffalo Heights Precinct.

Sixty-first. All of Amelia and Mecklenburg Counties; part of Brunswick County comprised of the Brodnax, Rock Store, Tillman, and Dromgoole Precincts; part of Lunenburg County comprised of the Plymouth, Brown's Store, McCoy Ghee's Store, Arrowhead Gun Club, Pleasant Grove, Reedy Creek, Peoples Community Center, Meherrin Fire Dept, and Courthouse Precincts; and part of Nottoway County comprised of Precinct 1-2, Precinct 2-1, Precinct 2-2, Precinct 3-2, Precinct 4-1, Precinct 4-2, Precinct 5-1, and Precinct 3-1 Part 1.

Sixty-second. Part of Chesterfield County comprised of the Enon, Point Of Rocks, and Salem Church Precincts and part of the Bellwood Precinct; part of Henrico County comprised of the Town Hall, Sandston, Seven Pines, Whitlocks, and Dorey Precincts; part of the City of Hopewell comprised of the Ward 3, Ward 4, Ward 5, Ward 7, and Ward 1 Precincts; and part of Prince George County comprised of the Richard Bland College, Templeton, Union Branch, Rives, Blackwater, Brandon, Jefferson Park, and Bland Precincts and part of the Courts Building Precinct.

Sixty-third. All of Dinwiddie County; all of the City of Petersburg; and part of Chesterfield County comprised of the Ettrick and Matoaca Precincts and part of the Branches Precinct.

Sixty-fourth. All of Surry County; all of the City of Williamsburg; part of the City of Franklin comprised of Precinct 1-1; part of Isle of Wight County comprised of the Smithfield, Carrollton, Rushmere, Pons, Courthouse, Windsor, Orbit, Walters, Carrsville, and Zuni Precincts; part of James City County comprised of the Jamestown A, Jamestown B, and Jamestown C Precincts and parts of the Berkeley A, Berkeley B, Powhatan A, Powhatan B, and Roberts A Part 1 Precincts; and part of Southampton County comprised of the Hunterdale and Sedley Precincts.

Sixty-fifth. All of Powhatan County; and part of Chesterfield County comprised of the Skinquarter, Tomahawk, Evergreen, Woolridge, Brandermill, Smoketree, Monacan, Harbour Pointe 401/Swift Creek 411, Midlothian, Salisbury, Sycamore and Watkins Precincts.

Sixty-sixth. All of the City of Colonial Heights; and part of Chesterfield County comprised of the South Chester, North Chester, Harrowgate, Wells, Ecoff, Dutch Gap, Iron Bridge, Winfrees Store, Beach, Winterpock, Walthall, and Bailey Bridge Precincts and part of the Branches Precinct.

Sixty-seventh. Part of Fairfax County comprised of the Chantilly, Dulles, Greenbriar East, Greenbriar West, Navy, Rocky Run, Waples Mill, Lees Corner, and Cub Run 903/Stone 917 Precincts and part of the London Towne Precinct; and part of Loudoun County comprised of part of the Arcola Precinct.

Sixty-eighth. Part of Chesterfield County comprised of the Reams, Wagstaff, Huguenot, Crestwood, Robious, Bon Air, Greenfield, Cranbeck, Shenandoah, and Belgrade 508/Black Heath 511 Precincts; and part of the City of Richmond comprised of the 101, 102, 103, 104, 105, 106, 112, 113, 114, 204, 410, 411, and 413 Precincts.

Sixty-ninth. Part of Chesterfield County comprised of the Belmont, Davis, and Beaufont Precincts and part of the Manchester Precinct; and part of the City of Richmond comprised of 404, 412, 501, 502, 503, 504, 509, 510, 610, 802, 807, 810, 902, 908, 909, 910, and 911 Precincts and parts of the 402 and 609 Precincts.

Seventieth. Part of Chesterfield County comprised of the Drewry's Bluff Precinct and part of the Bellwood Precinct; part of Henrico County comprised of the Central Gardens, Eanes, Glen Echo, Laburnum, Masonic, Montrose, Sullivans, and Mehfoud Precincts; and part of the City of Richmond comprised of the 403, 508, 701, 702, 703, 704, 705, 806, 811, 812, 813, 903, and 906 Precincts and parts of the 402 and 609 Precincts.

Seventy-first. Part of Henrico County comprised of the Hilliard, Stratford Hall, and Summit Court Precincts; and part of the City of Richmond comprised of the 203, 206, 207, 208, 211, 212, 213, 301, 302, 303, 304, 305, 306, 307, 308, 309, 505, 602, 603, 606, 607, 608, 706, and 707 Precincts.

Seventy-second. Part of Henrico County comprised of the Glen Allen, Hunton, Longan, Coalpit, Innsbrook, Jackson Davis, Cedarfield, Tucker, Byrd, Lakewood, Gayton, Godwin, Maybeury, Mooreland, Pemberton, Pinchbeck, and Ridgefield Precincts.

Seventy-third. Part of Henrico County comprised of the Brookland, Dumbarton, Glenside, Greendale, Hermitage, Johnson, Lakeside, Maude Trevvett, Moody, Staples Mill, Cardinal, Crestview, Freeman, Monument Hills, Ridge, Skipwith, Three Chopt, Westwood, Derbyshire, Rollingwood, Spottswood, and Tuckahoe Precincts; and part of the City of Richmond comprised of the 111 and 409 Precincts.

Seventy-fourth. All of Charles City County; part of Henrico County comprised of the Adams, Azalea, Bloomingdale, Brook Hill, Canterbury, Chamberlayne, East Highland Park, Fairfield, Glen Lea, Greenwood, Highland Gardens, Hungary, Longdale, Randolph, Ratcliffe, Upham, Wilkinson, Yellow Tavern, Maplewood, Chippegate, Landmark, Cedar Fork, Donahoe, Elko, Fairmount, Highland Springs, and Pleasants Precincts; part of the City of Hopewell comprised of the Ward 2 and Ward 6 Precincts; part of the City of Richmond comprised of the 604 Precinct; and part of Prince George County comprised of part of the Courts Building Precinct.

Seventy-fifth. All of Greensville and Sussex Counties; all of the City of Emporia; part of Brunswick County comprised of the Edgerton, Fitzhugh, Alberta, Danieltown, Elmore, Seymour, Sturgeon, King's Store, and Lawrenceville Precincts; part of the City of Franklin comprised of Precinct 2-1, Precinct 3-1, Precinct 4-1, Precinct 5-1, and Precinct 6-1; part of Isle of Wight County comprised of the Camps Mill Precinct; part of Lunenburg County comprised of the Parham's Store and Hound's Creek Precincts; and part of Southampton County comprised of the Berlin, Ivor, Boykins, Branchville, Capron, Sebrell, Drewryville, Forks-of-the-River, Courtland, Blackwater River, and Newsoms Precincts.

Seventy-sixth. Part of the City of Chesapeake comprised of the Churchland, Gilmerton, Jolliff One, Fellowship Baptist Church, Silverwood, Bailey Creek, Lake Drummond, John T. West, and Nansemond Precincts and part of Deep Creek Precinct; and part of the City of Suffolk comprised of the Driver, Ebenezer, Chuckatuck, King's Fork, Whaleyville, Kilby's Mill, Holland, Holy Neck, Lakeside, Olde Towne, Elephant's Fork, and Lake Meade Precincts and parts of the Cypress Chapel, Harbour View, and Nansemond River Precincts.

Seventy-seventh. Part of the City of Chesapeake comprised of the Camelot, Crestwood, Oscar Smith School, Geneva Park, Georgetown, E. W. Chittum School, St. Julians, Sunray I, South Norfolk Fire Station, Carver School, Providence Church of Christ, Westover, Sunray II, and South Norfolk Recreation Precincts and part of Deep Creek Precinct; and part of the City of Suffolk

comprised of the White Marsh, John F. Kennedy, Airport, and Hollywood Precincts and part of Cypress Chapel Precinct.

Seventy-eighth. Part of the City of Chesapeake comprised of the Great Bridge, Greenbrier, B. M. Williams School, Hickory Grove, Oak Grove, Hickory Middle School, Great Bridge Middle School, Bridgetown, River Birch, Parkways, Pleasant Crossing, and Bells Mill II Precincts.

Seventy-ninth. Part of the City of Chesapeake comprised of the Taylor Road Fire Station Precinct; part of the City of Norfolk comprised of the Larchmont Library and Larchmont Recreation Center Precincts and parts of the Canterbury, Titustown Center, and Zion Grace Precincts; part of the City of Portsmouth comprised of the Ten, Eleven, Twenty-Two, Twenty-Three, Twenty-Four, Twenty-Five, Thirty, Thirty-Three, Thirty-Four, Thirty-Five, Thirty-Six, and Thirty-Seven/Thirty-Eight Precincts; and part of the City of Suffolk comprised of the Yeates Precinct and parts of the Harbor View and Nansemond River Precincts.

Eightieth. Part of the City of Chesapeake comprised of the Johnson Park Precinct; part of the City of Norfolk comprised of the Ohel Sholom, St. Andrew's, and Berkley Precincts and parts of the Canterbury and Hunton Y Precincts; and part of the City of Portsmouth comprised of the One, Five, Seven, Nine, Thirteen, Fourteen, Sixteen, Seventeen, Nineteen, Twenty, Twenty-One, Twenty-Six, Twenty-Seven, Twenty-Eight, Twenty-Nine, Thirty-One, and Thirty-Two Precincts.

Eighty-first. Part of the City of Chesapeake comprised of the Bethel, Bells Mill, Indian Creek, Green Sea, Grassfield Part 1, and Grassfield Part 2 Precincts; and part of the City of Virginia Beach comprised of the Creeds, Capps Shop, Blackwater, and Ocean Lakes (3)/Red Wing (30)/Sigma (31)/Culver (63) Precincts and parts of the Magic Hollow, Oceana, Seatack (5)/Rudee (72), and Strawbridge Precincts.

Eighty-second. Part of the City of Virginia Beach comprised of the North Beach, South Beach, Linkhorn, Alanton, Kingston, Cape Henry, Kings Grant, Wolfsnare, Lynnhaven, Eastern Shore, Hilltop, and Trantwood (9)/Great Neck (10) Precincts and parts of the Little Neck, Oceana, and Seatack (5)/Rudee (72) Precincts.

Eighty-third. Part of the City of Virginia Beach comprised of the Old Donation, Aragona, Ocean Park, Thoroughgood, Lake Smith, Bayside, Davis Corner, Chesapeake Beach, Witchduck, Pembroke, Bonney, Meadows, and Shell Precincts and part of the Shannon Precinct.

Eighty-fourth. Part of the City of Virginia Beach comprised of the London Bridge, Plaza, Holland, Courthouse, Green Run, Landstown, and Hunt Precincts and parts of the Magic Hollow, Salem, and Strawbridge Precincts.

Eighty-fifth. Part of the City of Virginia Beach comprised of the Point O' View, Arrowhead, Larkspur, Providence, College Park, Brandon, Centerville, Stratford Chase, Homestead, Sherry Park, and Woodstock (25)/Fairfield (26) Precincts and parts of the Bellamy, Colonial, and Shannon Precincts.

Eighty-sixth. Part of Fairfax County comprised of the Floris 203/Frying Pan 235, Herndon #1, Herndon #2, Herndon #3, Hutchison, Stuart, and Franklin Precincts; and part of Loudoun County comprised of the Guilford, Sully, Park View, and Rolling Ridge Precincts and parts of the Cascades and Forest Ridge Precincts.

Eighty-seventh. Part of the City of Norfolk comprised of the Northside, Crossroads, Therapeutic Center, Wesley, Bayview United, East Ocean View, Larrymore, Little Creek, Oceanair, Tarrallton, Third Presbyterian, and Ocean View Center Part 2 Precincts and parts of the Azalea Gardens, Barron Black, Bayview School, Granby, Ocean View Center Part 1, Ocean View School, Titustown Center, Tucker House, and Zion Grace Precincts.

Eighty-eighth. Part of Fauquier County comprised of the Lois, Morrisville, Remington, and Opal Precincts; part of Spotsylvania County comprised of the

Grange Hall and Plank Road Precincts; and part of Stafford County comprised of the Hartwood, Hampton, Rock Hill, Roseville, Ruby, Stefaniga, Griffis, and Potomac Hills Precincts and part of the Simpson Precinct.

Eighty-ninth. Part of the City of Norfolk comprised of the Ghent Square, Immanuel, Lafayette Library, Lafayette Presbyterian, Lambert's Point, Maury, Park Place, Stuart, Suburban Park, Willard, Ballentine, Tanner's Creek, Coleman Place School, Lafayette-Winona, Lindenwood, Monroe, Norview Methodist, Norview Recreation Center, Rosemont, Sherwood School, and Young Park Precincts and parts of the Granby, Hunton Y, Sherwood Rec Center Part 2, Titustown Center, and Tucker House Precincts.

Ninetieth. Part of the City of Chesapeake comprised of the Indian River, Norfolk Highlands, Oaklette, and Tanglewood Precincts; part of the City of Norfolk comprised of the Bowling Park, Union Chapel, Brambleton, Campostella, Chesterfield, Coleman Place Presbyterian, Easton, Fairlawn, Houston, Ingleside, Poplar Halls, and Sherwood Rec Center Part 1 Precincts and parts of the Azalea Gardens, Barron Black, and Sherwood Rec Center Part 2 Precincts; and part of the City of Virginia Beach comprised of the Baker Precinct.

Ninety-first. All of the City of Poquoson; part of the City of Hampton comprised of the Syms, Booker, Burbank, Langley, and Phillips Precincts and parts of the Buckroe, Fox Hill, and Magruder Precincts; and part of York County comprised of the Seaford, Harris Grove, and Dare Precincts.

Ninety-second. Part of the City of Hampton comprised of the Aberdeen, Bassette, City Hall, Cooper, East Hampton, Lasalle, Lee, Pembroke, Phenix, Phoebus, River, Smith, Jones, Kecoughtan, and Tyler Precincts and parts of the Buckroe, Fox Hill, Magruder, and Northampton Precincts.

Ninety-third. Part of James City County comprised of the Roberts B and Roberts A Part 2 Precincts and part of the Roberts A Part 1 Precinct; and part of the City of Newport News comprised of the Epes, McIntosh, Reservoir, Richneck, Windsor, Watkins, Palmer, Kiln Creek, and Beaconsdale Precincts and parts of the Lee Hall and South Morrison Precincts.

Ninety-fourth. Part of the City of Newport News comprised of the Denbigh, Jenkins, Oyster Point, Bland, Boulevard, Charles, Christopher Newport, Deep Creek, Grissom, Hidenwood, Hilton, Nelson, Riverside, Sanford, Warwick, Yates, Riverview, River, and Sedgefield Precincts and part of the Lee Hall Precinct.

Ninety-fifth. Part of the City of Hampton comprised of the Tarrant, Wythe, Forrest, Kraft, Mallory, and Tucker Capps Precincts and part of Northampton Precinct; and part of the City of Newport News comprised of the Briarfield, Carver, Chestnut, Downtown, Dunbar, Huntington, Jefferson, Magruder, Marshall, New Market, Newsome Park, Reed, Washington, and Wilson Precincts and part of South Morrison Precinct.

Ninety-sixth. Part of James City County comprised of the Stonehouse A and Stonehouse B Precincts and parts of the Berkeley A, Berkeley B, Powhatan A, and Powhatan B Precincts; part of the City of Newport News comprised of the Saunders Precinct; and part of York County comprised of the Queens Lake, Yorktown, Waller Mill, Nelson, Magruder, Coventry, Edgehill, Harwoods Mill, Tabb, and Bethel Precincts.

Ninety-seventh. All of New Kent County; part of Caroline County comprised of the Madison, Reedy Church, and Mattaponi Precincts; part of Hanover County comprised of the Battlefield, Old Church, Cold Harbor, Black Creek, Studley, and Stonewall Jackson Precincts; part of Henrico County comprised of the Chickahominy, Nine Mile, and Antioch Precincts; part of King and Queen County comprised of the Owenton and Clark's Precincts; part of King William County comprised of the Second-B, Third, Fourth and Fifth Precincts and part of the Second-A Precinct; and part of Spotsylvania County comprised of the Partlow and Blaydes Corner Precincts.

Ninety-eighth. All of Essex, Gloucester, Mathews, and Middlesex Counties; part of King and Queen County comprised of the Shackelford's, Courthouse, and Old Mill Precincts; and part of King William County comprised of the First Precinct and part of the Second-A Precinct.

Ninety-ninth. All of King George, Lancaster, Northumberland, Richmond, and Westmoreland Counties; and part of Caroline County comprised of the Bowling Green and Port Royal Precincts.

One hundredth. All of Accomack and Northampton Counties; part of the City of Hampton comprised of part of the Buckroe Precinct; and part of the City of Norfolk comprised of parts of the Bayview School, Ocean View Center Part 1, Ocean View School, Titustown Center, and Zion Grace Precincts. (2001, Sp. Sess. I, c. 1.)

Editor's note. — This section is subject to preclearance by the Department of Justice, pursuant to § 5 of the federal Voting Rights Act.

ARTICLE 2.1.

Reapportionment of Local Election Districts.

§ 24.2-304.1. At-large and district elections; reapportionment of districts or wards; limits. — A. Except as otherwise specifically limited by general law or special act, the governing body of each county, city, or town may provide by ordinance for the election of its members on any of the following bases: (i) at large from the county, city, or town; (ii) from single-member or multi-member districts or wards, or any combination thereof; or (iii) from any combination of at-large, single-member, and multi-member districts or wards. A change in the basis for electing the members of the governing body shall not constitute a change in the form of county government.

B. If the members are elected from districts or wards and other than entirely at large from the locality, the districts or wards shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district or ward. In 1971 and every ten years thereafter, the governing body of each such locality shall reapportion the representation among the districts or wards, including, if the governing body deems it appropriate, increasing or diminishing the number of such districts or wards, in order to give, as nearly as is practicable, representation on the basis of population.

C. For the purposes of reapportioning representation in 2001 and every ten years thereafter, the governing body of a county, city, or town shall use the most recent decennial population figures for such county, city, or town from the United States Bureau of the Census, which figures are identical to those from the actual enumeration conducted by the United States Bureau of the Census for the apportionment of representatives in the United States House of Representatives, except that the census data for this apportionment purpose will not include any population figure which is not allocated to specific census blocks within the Commonwealth, even though that population may have been included in the apportionment population figures of the Commonwealth for the purpose of allocating United States House of Representatives seats among the states.

D. Notwithstanding any other provision of general law or special act, the governing body of a county, city, or town shall not reapportion the representation in the governing body at any time other than that required following the decennial census, except as (i) provided by law upon a change in the boundaries of the county, city, or town which results in an increase or decrease in the population of the county, city, or town of more than one percent, (ii) the

result of a court order, (iii) the result of a change in the form of government, or (iv) the result of an increase or decrease in the number of districts or wards other than at-large districts or wards. The foregoing provisions notwithstanding, the governing body subsequent to the decennial redistricting may adjust district or ward boundaries in order that the boundaries might coincide with state legislative or congressional district boundaries; however, no adjustment shall affect more than five percent of the population of a ward or district or 250 persons, whichever is lesser. If districts created by a reapportionment enacted subsequent to a decennial reapportionment are invalid under the provisions of this subsection, the immediately pre-existing districts shall remain in force and effect until validly reapportioned in accordance with law. (1995, c. 249; 2000, c. 884.)

The 2000 amendments. — The 2000 amendment by c. 884, in subsection C, substituted “2001” for “1971” and deleted “population figures” following “town shall use” and inserted “population figures for such county, city, or town from the” and substituted the language

beginning “Bureau of the Census” and ending “seats among the states” for “census for such county, city, or town.”

Law Review. — For an article, “Redistricting in the Post-2000 Era,” see 8 Geo. Mason L. Rev. 431 (2000).

§ 24.2-304.2. Governing body authorized to expend funds for reapportionment. — The governing body of each county, city, or town is authorized to expend funds and employ persons as it may deem necessary to carry out the responsibilities relating to reapportionment provided by law. (1995, c. 249.)

§ 24.2-304.3. Recording reapportionment ordinance; notice requirements. — A copy of the ordinance reapportioning representation in the governing body of a county, city, or town, including a description of the boundaries and a map showing the boundaries of the districts or wards, shall be recorded in the official minutes of the governing body.

The clerk of the county, city, or town shall send a certified copy of the ordinance, including a description of the boundaries and a map showing the boundaries of the districts or wards, to the local electoral board, Secretary of the Commonwealth, State Board of Elections, and Division of Legislative Services. (1995, c. 249.)

§ 24.2-304.4. Mandamus action for failure to reapportion districts or wards. — Whenever the governing body of any county, city or town fails to perform the duty of reapportioning the representation on the governing body among the districts or wards of the county, city, or town, or fails to change the boundaries of districts or wards, as prescribed by law, mandamus shall lie in favor of any citizen of such county, city, or town, to compel the performance of such duty.

Whenever the governing body of any county, city or town changes the boundaries, or increases or diminishes the number of districts or wards, or reapportions the representation in the governing body as prescribed by law, the action shall not be subject to judicial review, unless it is alleged that the representation is not proportional to the population of the district or ward. If such allegation is made in a bill of complaint filed in the circuit court for the county, city or town, the court shall determine whether the action of the governing body complies with the constitutional requirements for redistricting and reapportionment. Appeals from the court’s decision shall be as in any other suit. (1995, c. 249.)

§ 24.2-304.5. Notification of certain civil actions. — Any county, city, or town made a defendant in any civil action challenging the legality of its

election district boundaries shall immediately notify the Attorney General of the pending civil action for review pursuant to § 2.2-508. (1995, c. 249.)

Cross references. — As to the Attorney General's authority in developing appropriate remedies concerning challenges to the legality of election district boundaries, see § 2.2-508.

§ 24.2-304.6. Effect of reapportionment on appointments and terms of local officers, school board and planning commission members. — County, city, or town officers, including members of the school board or planning commission, in office on the effective date of a reapportionment or redistricting ordinance, shall complete their terms of office, regardless of loss of residency in a particular district due to reapportionment or redistricting. (1995, c. 249.)

ARTICLE 3.

Requirements for Election Districts, Precincts, and Polling Places.

§ 24.2-305. Composition of election districts and precincts. — A. Each election district and precinct shall be composed of compact and contiguous territory and shall have clearly defined and clearly observable boundaries.

B. A "clearly observable boundary" shall include (i) any named road or street, (ii) any road or highway which is a part of the federal, state primary, or state secondary road system, (iii) any river, stream, or drainage feature shown as a polygon boundary on the TIGER/line files of the United States Bureau of the Census, or (iv) any other natural or constructed or erected permanent physical feature which is shown on an official map issued by the Virginia Department of Transportation, on a United States Geological Survey topographical map, or as a polygon boundary on the TIGER/line files of the United States Bureau of the Census. No property line or subdivision boundary shall be deemed to be a clearly observable boundary unless it is marked by a permanent physical feature that is shown on an official map issued by the Virginia Department of Transportation, on a United States Geological Survey topographical map, or as a polygon boundary on the TIGER/line files of the United States Bureau of the Census. (1986, c. 593, § 24.1-40.7; 1990, c. 500; 1992, c. 425; 1993, c. 641; 2001, c. 614.)

Editor's note. — Acts 2001, c. 614, cl. 3, provides: "That an emergency exists and the amendments to § 24.2-305 are in force from the passage of this act [March 25, 2001]. The repeal of § 24.2-309.1 shall take effect in due course [July 1, 2001]."

The 2001 amendments. — The 2001 amendment by c. 614, effective March 25, 2001, in subsection B, substituted "shown as a polygon boundary on the TIGER/line files of the United States Bureau of the Census" for "forty feet or more in width," substituted "an official"

for "the official county, city, or town," deleted "or" following "Department of Transportation," inserted "or as a polygon boundary on the TIGER/line files of the United States Bureau of the Census" at the end of the first sentence, and rewrote the last sentence, which formerly read: "No property line or subdivision boundary shall be used as a precinct boundary unless it appears as a block boundary on the United States Bureau of the Census maps for the 1990 Census."

§ 24.2-306. Changes not to be enacted within sixty days of general election; notice requirements. — A. No change in any local election district, precinct, or polling place shall be enacted within sixty days next preceding any general election. Notice shall be published prior to enactment in a newspaper having general circulation in the election district or precinct once a week for two successive weeks. The published notice shall state where

descriptions and maps of proposed boundary and polling place changes may be inspected.

B. Notice of any adopted change in any election district or polling place shall be mailed to all registered voters whose election district or polling place is changed at least fifteen days prior to the next general, special, or primary election.

C. Each county, city, and town shall comply with the applicable requirements of law, including §§ 24.2-301 and 24.2-304.3, and send copies of enacted changes to the local electoral board, the State Board, and the Division of Legislative Services. (Code 1950, §§ 24-49 through 24-51; 1970, c. 462, § 24.1-39; 1971, Ex. Sess., c. 119; 1993, c. 641; 1995, c. 249.)

§ 24.2-307. Requirements for county and city precincts. — The governing body of each county and city shall establish by ordinance as many precincts as it deems necessary. Each governing body is authorized to increase or decrease the number of precincts and alter precinct boundaries subject to the requirements of this chapter.

At the time any precinct is established, it shall have no more than 5,000 registered voters. The general registrar shall notify the governing body whenever the number of voters who voted in a precinct in an election for President of the United States exceeds 4,000. Within six months of receiving the notice, the governing body shall proceed to revise the precinct boundaries, and any newly established or redrawn precinct shall have no more than 5,000 registered voters.

At the time any precinct is established, each precinct in a county shall have no fewer than 100 registered voters and each precinct in a city shall have no fewer than 500 registered voters.

Each precinct shall be wholly contained within any election district used for the election of one or more members of the governing body or school board for the county or city.

The governing body shall establish by ordinance one polling place for each precinct. (Code 1950, §§ 24-45, 24-46; 1954, c. 375; 1956, c. 378; 1962, cc. 185, 536; 1970, c. 462, §§ 24.1-36, 24.1-37; 1971, Ex. Sess., c. 119; 1976, c. 616; 1977, c. 30; 1978, c. 778; 1980, c. 639; 1992, c. 445; 1993, c. 641; 1999, c. 515.)

The 1999 amendment, in the second paragraph, substituted “voters who voted in a precinct in an election for President of the United States exceeds 4,000” for “registered voters in a precinct exceeds 5,000” in the second sentence,

and substituted “and any newly established or redrawn precinct shall have no more than 5,000 registered voters” for “to comply with this requirement” in the last sentence.

§ 24.2-308. Requirements for town precincts. — There shall be one precinct for each town unless the council by ordinance establishes more than one precinct.

Each town precinct shall be wholly contained within any election district used for the election of one or more council or school board members.

The council shall establish by ordinance one polling place for each precinct. (Code 1950, § 24-171; 1970, c. 462, § 24.1-92; 1978, c. 778; 1980, c. 639; 1981, c. 425; 1992, c. 445; 1993, c. 641.)

§ 24.2-309. Establishment of precinct with less than minimum number of voters; conduct of elections where all voters do not have same choice of candidates. — A precinct may be established with fewer than the minimum number of registered voters required by this article if a larger precinct cannot be established in which all persons are voting at any general election for the same candidates for the governing body and school board of the

§ 24.2-309.1 ELECTION DISTRICTS, PRECINCTS, POLLING PLACES § 24.2-310.1

county or city, House of Delegates, state Senate, and United States House of Representatives. The governing body may select a polling place within one mile of the boundaries of that precinct if a suitable polling place is not available within that precinct.

The State Board shall make regulations setting procedures by which elections may be conducted in precincts in which all voters do not have the same choice of candidates at a general election. (1971, Ex. Sess., c. 264, § 24.1-40; 1993, c. 641.)

§ 24.2-309.1: Repealed by Acts 2001, c. 614.

Editor's note. — Acts 2001, c. 614, cl. 3, provides: "That an emergency exists and the amendments to § 24.2-305 are in force from the passage of this act [March 25, 2001]. The repeal of § 24.2-309.1 shall take effect in due course [July 1, 2001]."

§ 24.2-310. **Requirements for polling places.** — A. The polling place for each precinct shall be located within the county or city and either within the precinct or within 1,500 yards of the precinct boundary. The polling place for a county precinct may be located within a city if the city is wholly contained within the county election district served by the precinct. The polling place for a town precinct may be located within 1,000 yards of the precinct and town boundary.

B. The governing body of each county, city, and town shall provide funds to enable the electoral board to provide adequate facilities at each polling place for the conduct of elections. Each polling place shall be located in a public building whenever practicable. If more than one polling place is located in the same building, each polling place shall be located in a separate room or separate and defined space.

C. Polling places shall be accessible to qualified voters as required by the provisions of the Virginians with Disabilities Act (§ 51.5-1 et seq.), the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee et seq.), and the Americans with Disabilities Act relating to public services (42 U.S.C. § 12131 et seq.). The State Board shall provide instructions to the local electoral boards and general registrars to assist the localities in complying with the requirements of the Acts.

D. If an emergency makes a polling place unusable or inaccessible, the electoral board shall provide an alternative polling place and give notice of the change in polling place, subject to the prior approval of the State Board. (Code 1950, §§ 24-45, 24-46, 24-171, 24-179 through 24-181; 1954, c. 375; 1956, c. 378; 1962, cc. 185, 536; 1970, c. 462, §§ 24.1-36, 24.1-37, 24.1-92, 24.1-97; 1971, Ex. Sess., c. 119; 1976, c. 616; 1977, c. 30; 1978, c. 778; 1980, c. 639; 1981, c. 425; 1984, c. 217; 1985, c. 197; 1986, c. 558; 1992, c. 445; 1993, cc. 546, 641; 1994, c. 307.)

Editor's note. — Acts 1993, c. 546 amended former § 24.1-37, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above.

§ 24.2-310.1. **Polling places; additional requirement.** — The requirement stated in this section shall be in addition to requirements stated in §§ 24.2-307, 24.2-308, and 24.2-310, including the requirement that polling places be located in public buildings whenever practical. No polling place shall be located in a building which serves primarily as the headquarters, office, or assembly building for any private organization, other than an organization of a civic, educational, religious, charitable, historical, patriotic, cultural, or similar nature, unless the State Board has approved the use of the building

because no other building meeting the accessibility requirements of this title is available. (1993, c. 904, § 24.1-37.1; 1993, c. 641.)

Editor's note. — Acts 1993, c. 904 enacted former § 24.1-37.1, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given to this section, as set out above.

ARTICLE 4.

Effective Dates of Redistricting Measures.

§ 24.2-311. Effective date of decennial redistricting measures; elections following decennial redistricting. — A. Legislation enacted to accomplish the decennial redistricting of congressional and General Assembly districts required by Article II, Section 6 of the Constitution of Virginia shall take effect immediately. Members of Congress and the General Assembly in office on the effective date of the decennial redistricting legislation shall complete their terms of office. The elections for their successors shall be held at the November general election next preceding the expiration of the terms of office of the incumbent members and shall be conducted on the basis of the districts set out in the legislation to accomplish the decennial redistricting.

B. Ordinances adopted by local governing bodies to accomplish the decennial redistricting of districts for county, city, and town governing bodies required by Article VII, Section 5 of the Constitution of Virginia shall take effect immediately. Members of county, city, and town governing bodies in office on the effective date of a decennial redistricting measure shall complete their terms of office. The elections for their successors shall be held at the general election next preceding the expiration of the terms of office of the incumbent members and shall be conducted on the basis of the districts set out in the measures to accomplish the decennial redistricting.

C. If a vacancy in any such office occurs after the effective date of a decennial redistricting measure and a special election is required by law to fill the vacancy, the vacancy shall be filled from the district in the decennial redistricting measure which most closely approximates the district in which the vacancy occurred.

D. If a decennial redistricting measure adopted by a local governing body adds one or more districts and also increases the size of the governing body, an election for the additional governing body member or members to represent the additional district or districts for the full or partial term provided by law shall be held at the next November general election in any county or in any city or town that regularly elects its governing body in November pursuant to § 24.2-222.1, or at the next May general election in any other city or town, which occurs at least 120 days after the effective date of the redistricting measure.

E. In the event of a conflict between the provisions of a decennial redistricting measure and the provisions of the charter of any locality, the provisions of the redistricting measure shall be deemed to override the charter provisions to the extent required to give effect to the redistricting plan. (1990, c. 500, § 24.1-17.2; 1993, c. 641; 2000, c. 1045.)

The 2000 amendments. — The 2000 amendment by c. 1045, in subsection D, inserted "in any city or town that regularly elects its governing body in November pursuant to § 24.2-222.1, or at" following "county or," and inserted "other" preceding "city or town."

§ 24.2-312. Effective date of other redistricting measures; elections following annexation. — A. Any redistricting, other than the decennial

redistricting, of any county, city, or town shall be effective at midnight December 31 of the year in which the redistricting occurs.

B. Members of county, city, and town governing bodies in office when any such redistricting measure is adopted shall complete their terms of office. The elections for their successors shall be held at the general election next preceding the expiration of the terms of office of the incumbent members and shall be conducted on the basis of the districts set out in the measures to accomplish the redistricting.

C. When a county has been redistricted as a result of annexation and the redistricting occurs in the year of a regularly scheduled November general election for members of the county's board of supervisors, the November general election shall be conducted from the newly established districts so long as the redistricting measure has been adopted prior to March 15 of the year of the election.

D. When a city or town has been redistricted as a result of annexation and the redistricting occurs prior to a regularly scheduled May general election for members of the city's or town's governing body, the May general election shall be conducted from the newly established districts so long as the redistricting measure has been adopted prior to the November 15 immediately preceding the election. (1990, c. 500, § 24.1-17.3; 1993, c. 641; 1995, c. 249.)

CHAPTER 4.

VOTER REGISTRATION.

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- 24.2-440. Eligibility for temporary registration by absentee application.
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- 24.2-444. Registration records open to public inspection.
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ARTICLE 1.

Qualifications.

§ 24.2-400. **Persons entitled to register and vote.** — Any person who is not registered to vote, but would otherwise be a qualified voter, is entitled to register to vote as provided in this chapter. Any person who is registered to vote and is a qualified voter shall be entitled to vote in the precinct where he resides. (Code 1950, §§ 24-17, 24-22, 24-23; 1963, Ex. Sess., c. 2; 1970, c. 462, § 24.1-41; 1971, Ex. Sess., cc. 205, 265; 1974, c. 428; 1977, c. 490; 1978, c. 778; 1993, c. 641.)

§ 24.2-401. **Persons moving from precinct.** — A person who is qualified to vote except for having moved his residence from one precinct to another within the Commonwealth may vote in the precinct from which he has moved in the following November general election and any intervening election unless his registration has been transferred or cancelled as provided in this chapter. In addition, a person may continue to vote in the precinct from which he has moved through the ensuing second general election for federal office, provided that (i) he has moved his residence from one precinct to another in the same registrar's jurisdiction and the same congressional district; (ii) he has failed to respond to the notice provided in § 24.2-428; (iii) his registration has not been transferred or cancelled as provided in this chapter; and (iv) he has affirmed orally or in writing his new address before an officer of election at the polling place. (Code 1950, §§ 24-17, 24-22, 24-23; 1963, Ex. Sess., c. 2; 1970, c. 462, § 24.1-41; 1971, Ex. Sess., cc. 205, 265; 1974, c. 428; 1977, c. 490; 1978, c. 778; 1993, c. 641; 1996, cc. 72, 73; 1997, c. 346.)

Law Review. — For comment on the removal of names from voter registration rolls, see 22 Wash. & Lee L. Rev. 320 (1965). For note, "Restoration of Deprived Rights," see 10 Wm. & Mary L. Rev. 924 (1969). For survey of election

law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970). For comment on rights of the convicted felon on parole, see 13 U. Rich. L. Rev. 367 (1979).

§ 24.2-402. **Persons moving from Commonwealth fewer than thirty days before presidential election.** — A person who is qualified to vote except for having moved his residence from the Commonwealth after the thirtieth day preceding a presidential election may vote in the precinct from which he has moved only in that election and only for electors of President and Vice-President of the United States.

The officers of election shall deliver to any person who asks to vote under this section the paper ballot for electors of President and Vice-President of the United States and no other ballot. The ballot shall be voted, handled, and counted with other like ballots in accordance with the provisions of this title. (Code 1950, §§ 24-17, 24-22, 24-23; 1963, Ex. Sess., c. 2; 1970, c. 462, § 24.1-41; 1971, Ex. Sess., cc. 119, 205, 265, § 24.1-41.1; 1974, c. 428; 1977, c. 490; 1978, c. 778; 1993, c. 641.)

§ 24.2-403. **Persons under eighteen years of age.** — Any person who is otherwise qualified and will be eighteen years of age at the next general election shall be permitted to register in advance and also vote in any intervening primary or special election. (Code 1950, §§ 24-17, 24-22, 24-23; 1963, Ex. Sess., c. 2; 1970, c. 462, § 24.1-41; 1971, Ex. Sess., cc. 205, 265; 1974, c. 428; 1977, c. 490; 1978, c. 778; 1993, c. 641.)

ARTICLE 2.

Virginia Voter Registration System.

§ 24.2-404. Duties of State Board. — A. The State Board shall provide for the continuing operation and maintenance of a central record-keeping system, the Virginia Voter Registration System, for all voters registered in the Commonwealth.

In order to operate and maintain the system, the Board shall:

1. Maintain a complete, separate, and accurate record of all registered voters in the Commonwealth.

2. Require the general registrars to enter the names of all registered voters into the system and to change or correct registration records as necessary.

3. Provide to each general registrar, voter registration cards for newly registered voters and for notice to registered voters on the system of changes and corrections in their registration records and polling places.

4. Require the general registrars to delete from the record of registered voters the name of any voter who (i) is deceased, (ii) is no longer qualified to vote in the county or city where he is registered due to removal of his residence, (iii) has been convicted of a felony, (iv) has been adjudicated incapacitated, or (v) is otherwise no longer qualified to vote as may be provided by law.

5. Retain on the system for four years a separate record for registered voters whose names have been deleted, with the reason for deletion.

6. Provide to each general registrar, at least ten days prior to a general or primary election and three days prior to a special election, a list of all registered voters in the county or city, together with an alphabetical list of all registered voters in each precinct of the county, city, or town. These precinct lists shall be used as the official lists of qualified voters and shall constitute the precinct registered voter lists.

7. Acquire by purchase, lease, or contract equipment necessary to execute the duties of the Board.

8. Use any source of information that may assist in carrying out the purposes of this section. All agencies of the Commonwealth shall cooperate with the State Board in procuring and exchanging identification information for the purpose of maintaining the voter registration system.

9. Reprint and impose a reasonable charge for the sale of any part of Title 24.2, lists of precincts and polling places, statements of election results by precinct, and any other items required of the State Board by law. Receipts from such sales shall be credited to the Board for reimbursement of printing expenses.

B. The State Board shall be authorized to provide for the production, distribution, and receipt of information and lists through the Virginia Voter Registration System by any appropriate means including, but not limited to, paper and electronic means. (1970, c. 462, § 24.1-23; 1971, Ex. Sess., c. 119; 1972, c. 620; 1973, c. 30; 1974, cc. 369, 428; 1975, c. 515; 1976, c. 616; 1978, c. 778; 1983, c. 348; 1993, c. 641; 1997, c. 801; 2000, cc. 510, 554.)

The 2000 amendments. — The 2000 amendments by cc. 510 and 554 are identical, and added subsection B.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-404.1. Secretary of State Board of Elections to serve as state coordinator for the administration of the National Voter Registration Act. — The Secretary of the State Board of Elections shall be the chief state election officer responsible for the coordination of state responsibilities under

the National Voter Registration Act (42 U.S.C. § 1973gg et seq.). (1996, cc. 72, 73.)

§ 24.2-404.2. National Voter Registration Act Coordinating Committee created. — There is hereby established a National Voter Registration Act Coordinating Committee, consisting of the chief deputy, or other designee, of the State Board of Elections; a deputy commissioner, or other designee, of the Department of Motor Vehicles; representatives of three additional agencies designated as voter registration agencies pursuant to § 24.2-411.2, which agencies shall be specified by the Secretary of the State Board; and five general registrars who shall be appointed by the Voter Registrars Association of Virginia. The Committee shall coordinate implementation of the National Voter Registration Act and make recommendations to the Secretary of the State Board of Elections. The chief deputy of the State Board shall chair the meetings of the Committee. (1999, c. 118.)

§ 24.2-405. Persons who may obtain lists of registered voters. — A. The State Board shall furnish, at a reasonable price, lists of registered voters for their districts to (i) courts of the Commonwealth and the United States for jury selection purposes, (ii) candidates for election or political party nomination to further their candidacy, (iii) political party committees or officials thereof for political purposes only, (iv) incumbent officeholders to report to their constituents, and (v) nonprofit organizations which promote voter participation and registration for that purpose only. The lists shall be furnished to no one else and used for no other purpose. However, the State Board is authorized to furnish information from the voter registration system to general registrars for their official use and to the Department of Motor Vehicles and other appropriate state agencies for maintenance of the voter registration system.

B. The State Board shall furnish, at a reasonable price, lists of the addresses of registered voters for their localities to local government census liaisons and their staffs for the sole purpose of providing address information to the United States Bureau of the Census. The State Board shall also furnish, at a reasonable price, such lists to the Clerk of the Senate and the Clerk of the House of Delegates for the sole purpose of maintaining a database of constituent addresses for the General Assembly. The information authorized under this subsection shall be furnished to no other person and used for no other purpose. No list furnished under this subsection shall contain the name of any registered voter. For the purpose of this subsection, the term "census liaison" shall have the meaning provided in 13 U.S.C. § 16.

C. In no event shall any list furnished under this section contain the social security number of any registered voter except a list furnished to a court of the Commonwealth or of the United States for jury selection purposes.

D. Any list furnished under subsection A of this section shall contain the post office box address in lieu of the residence street address for any active or retired law-enforcement officer, as defined in § 9.1-101 and in 5 U.S.C.A. § 8331 (20) but excluding officers whose duties relate to detention as defined in paragraphs (A) through (D) of § 8331 (20), who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address located in the Commonwealth for use on such lists.

E. Any printed precinct list furnished under subsection A of this section shall contain the post office box address in lieu of the residence street address for any party granted a protective order issued by or under the authority of any court of competent jurisdiction, including but not limited to courts of the Commonwealth of Virginia, who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address located

in the Commonwealth for use on such lists. (1970, c. 462, § 24.1-23; 1971, Ex. Sess., c. 119; 1972, c. 620; 1973, c. 30; 1974, cc. 369, 428; 1975, c. 515; 1976, c. 616; 1978, c. 778; 1983, c. 348; 1993, cc. 144, 641; 1994, cc. 250, 656; 1995, c. 314; 1996, c. 251; 1999, c. 843; 2000, cc. 512, 556; 2001, cc. 612, 626.)

Editor's note. — Acts 1993, c. 144 amended former § 24.1-23, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above. In accordance with c. 144, the amendment added the second paragraph.

The 1999 amendment, effective March 29, 1999, in the first paragraph, added the subsection A designator, substituted "However" for "except that," and inserted "and to the Department of Motor Vehicles and other appropriate state agencies for maintenance of the voter registration system. Further, and notwithstanding any other provision of law, multijurisdictional staffing by general registrars and their staffs shall be allowed for voter registration pilot projects, approved by the State Board, that are located at facilities of the Department of Motor Vehicles," added subsection B, designated the last three paragraphs as subsections C, D and E, and in subsections D and E, inserted "subsection A of."

The 2000 amendments. — The 2000 amendments by c. 512 and 556 are identical, and deleted the last sentence of subsection A, referring to multijurisdictional staffing by general registrars and their staffs for voter registration pilot projects.

The 2001 amendments. — The 2001 amendment by cc. 612 and 626 are identical, and substituted "located in the Commonwealth" for "for his residence" near the end of subsections D and E; and substituted "issued by or under the authority of any court of competent jurisdiction, including but not limited to courts of the Commonwealth of Virginia" for "as described in §§ 16.1-253.1, 16.1-253.4, 16.1-279.1, and 18.2-60.3" in subsection E.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970). For an article, "Governing Through Intermediaries," see 85 Va. L. Rev. 1627 (1999). For a commentary, "Pluralism With a Corporate Face: A Comment On Issacharoff and Ortiz," see 85 Va. L. Rev. 1671 (1999). For a commentary, "Political Parties as Donative Intermediaries," see 85 Va. L. Rev. 1683 (1999). For an article, "Politics By Other Means," see 85 Va. L. Rev. 1697 (1999). For a commentary, "It's Not Just Talk," see 85 Va. L. Rev. 1725 (1999). For a commentary, "Market Failures and Failures of Markets," see 85 Va. L. Rev.

1745 (1999). For an article, "The Issue of Issue Advocacy: An Economic, Political, and Constitutional Analysis," see 85 Va. L. Rev. 1761 (1999). For a commentary, "Taking Issue With Issue Advocacy," see 85 Va. L. Rev. 1793 (1999). For a commentary, "On the Issue of Issue Advocacy," see 85 Va. L. Rev. 1803 (1999).

Editor's note. — The cases cited below were decided under a former law corresponding to this section.

To whom central voters' list required to be available under Constitution. — Since the legislature has seen fit to make the central voters' list available to some advocates of political causes and candidates, it may not, within the Equal Protection Clause of the Fourteenth Amendment to the federal Constitution, deny it to others. *Mahan v. National Conservative Political Action Comm.*, 227 Va. 330, 315 S.E.2d 829 (1984).

In order for the statute to be constitutional, it must be construed so as to make the central voters' list equally available, without discrimination, to all persons and groups who intend to use it for legislatively-ordained political and official purposes, and who will subscribe to the requisite oath and pay the requisite fee. *Mahan v. National Conservative Political Action Comm.*, 227 Va. 330, 315 S.E.2d 829 (1984).

Denial of central voters' list to political action committee held unconstitutional.

— Subdivision (8) of former § 24.1-23 was unconstitutional and invalid as applied to a political action committee because it abridged protected free speech in a manner unjustified by a compelling state interest, and because it unlawfully discriminated against the political action committee by treating it differently from other political organizations similarly situated. *Mahan v. National Conservative Political Action Comm.*, 227 Va. 330, 315 S.E.2d 829 (1984).

Public disclosure of potential voter's social security number as condition of right to vote unconstitutional. — To the extent that former § 24.1-23 and/or former § 24.1-56 permit the public disclosure of a potential voter's social security number as a condition of his right to vote, they create an intolerable burden on that right as protected by the First and Fourteenth Amendments. *Greidinger v. Davis*, 988 F.2d 1344 (4th Cir. 1993).

§ 24.2-406. Persons who may obtain lists of persons voting at primaries and elections. — The State Board shall furnish to candidates, elected officials, or political party chairmen and to no one else, on request and at a

reasonable price, lists for their districts of persons who voted at any primary or general election held in the two preceding years. Such lists shall be used only for campaign and political purposes and for reporting to constituents.

In no event shall any list furnished under this section contain the social security number of any registered voter.

Any list furnished under this section shall contain the post office box address in lieu of the residence street address for any active or retired law-enforcement officer, as defined in § 9.1-101 and in 5 U.S.C.A. § 8331 (20) but excluding officers whose duties relate to detention as defined in paragraphs (A) through (D) of § 8331 (20), who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address located in the Commonwealth for use on such lists.

Any printed precinct list furnished under this section shall contain the post office box address in lieu of the residence street address for any party granted a protective order issued by or under the authority of any court of competent jurisdiction, including but not limited to courts of the Commonwealth of Virginia, who has furnished at the time of registration or subsequently, in addition to his street address, a post office box address located in the Commonwealth for use on such lists. (1970, c. 462, § 24.1-23; 1971, Ex. Sess., c. 119; 1972, c. 620; 1973, c. 30; 1974, cc. 369, 428; 1975, c. 515; 1976, c. 616; 1978, c. 778; 1983, c. 348; 1993, cc. 144, 641; 1994, c. 250; 1995, c. 314; 1996, c. 251; 2001, cc. 612, 626.)

Editor's note. — Acts 1993, c. 144 amended former § 24.1-23, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above. In accordance with c. 144, the amendment added the second paragraph.

The 2001 amendments. — The 2001 amendment by cc. 612 and 626 are identical, and substituted "located in the Commonwealth" for "for his residence" near the end of

the third and fourth paragraphs, and substituted "issued by or under the authority of any court of competent jurisdiction, including but not limited to courts of the Commonwealth of Virginia" for "as described in §§ 16.1-253.1, 16.1-253.4, 16.1-279.1, and 18.2-60.3" in the fourth paragraph.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-407. Statement for persons receiving lists of persons registered or voting; penalties. — Any person receiving lists pursuant to § 24.2-405 or § 24.2-406 shall sign the following statement:

"I understand that the lists requested are the property of the State Board of Elections of the Commonwealth of Virginia, and I hereby state or agree, subject to felony penalties for making false statements pursuant to § 24.2-1016, that (i) I am a person authorized by § 24.2-405 or § 24.2-406 of the Code of Virginia to receive a copy of the lists described; (ii) the lists will be used only for the purposes prescribed and for no other use; and (iii) I will not permit the use or copying of the lists by persons not authorized by the Code of Virginia to obtain them.

Signature of Purchaser

(1970, c. 462, § 24.1-23; 1971, Ex. Sess., c. 119; 1972, c. 620; 1973, c. 30; 1974, cc. 369, 428; 1975, c. 515; 1976, c. 616; 1978, c. 778; 1983, c. 348; 1993, c. 641.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-407.1. Prohibition on disclosure of social security numbers. — It shall be unlawful for any person who has obtained, under § 24.2-405 or § 24.2-406 or any prior law, a list of persons registered or voting which contained social security numbers to disclose any voter's social security

number to any other person. Any person maintaining a system containing social security numbers obtained from the Board shall delete or destroy the portion of his records containing those numbers. (1994, c. 656.)

§ 24.2-408. State Registrar of Vital Records to transmit monthly lists of decedents to State Board. — The State Registrar of Vital Records shall transmit to the State Board by electronic means a monthly list of all persons of the age of seventeen years or more who shall have died in the Commonwealth subsequent to its previous monthly list. The lists shall be in a format specified by the State Board and shall contain the deceased's name; address; county, city, or town of residence; social security number, if any; and date and place of his birth and of his death. The Board shall maintain a permanent record of the information in the lists as part of the voter registration system. The general registrars shall have access to the information in the lists to carry out their duties pursuant to § 24.2-427. Information in the lists shall be confidential and consistent with the requirements of § 32.1-271. (1970, c. 462, § 24.1-25; 1972, c. 620; 1975, c. 515; 1993, c. 641; 1999, c. 117.)

The 1999 amendment, effective April 1, 2000, in the first sentence, substituted "transmit to the State Board by electronic means a monthly list" for "furnish the State Board a monthly report" and substituted "list" for "report" following "previous monthly"; substituted

"lists shall be in a format specified by the State Board and" for "reports" in the second sentence; rewrote the former third sentence which read: "The Board shall transmit the information from the reports to the appropriate general registrars," and added the last sentence.

§ 24.2-409. Division of Criminal Records to transmit monthly lists of felony convictions to State Board. — The Division of Central Criminal Records Exchange shall transmit to the State Board by electronic means a monthly list of all persons convicted of a felony during the preceding month. The list shall be in a format specified by the State Board and shall contain the convicted person's name; address; county, city or town of residence; social security number, if any; date and place of birth; and date of conviction. The Board shall maintain a permanent record of the information in the lists as part of the voter registration system. The general registrars shall have access to the information in the lists to carry out their duties pursuant to § 24.2-427. (1970, c. 462, § 24.1-26; 1972, c. 620; 1975, c. 515; 1993, c. 641; 1999, c. 117.)

The 1999 amendment, effective April 1, 2000, substituted "transmit to the State Board by electronic means a monthly" for "furnish monthly to the State Board a complete" in the first sentence, inserted "shall be in a format specified by the State Board and" in the second

sentence, rewrote the third sentence which formerly read: "The Board shall transmit the information from the list to the appropriate general registrars," and added the last sentence.

§ 24.2-409.1. State Board to transmit information pertaining to persons convicted of a felony in federal court. — Upon receipt of a notice of a felony conviction sent by a United States attorney pursuant to the National Voter Registration Act (42 U.S.C. § 1973gg et seq.), the State Board shall notify the appropriate general registrar of the conviction. (1996, cc. 72, 73.)

§ 24.2-410. Clerks of circuit courts to furnish lists of incompetents. — The clerk of each circuit court shall furnish monthly to the State Board a complete list of all persons adjudicated incapacitated pursuant to Article 1.1 (§ 37.1-134.6 et seq.) of Chapter 4 of Title 37.1, and therefore "mentally incompetent" for purposes of this title unless the court order specifically provides otherwise, during the preceding month or a statement that no adjudications have occurred that month. The list shall contain each such

person's name; address; county, city, or town of residence; social security number, if any; date and place of birth; and date of adjudication. The Board shall transmit the information from the list to the appropriate general registrars. (1976, c. 616, § 24.1-26.1; 1993, c. 641; 1998, c. 582.)

ARTICLE 3.

Locations and Times for Registration.

§ 24.2-411. Office of the general registrar. — Each local governing body shall furnish the general registrar with a clearly marked and suitable office which shall be the principal office for voter registration. The office shall be owned or leased by the city or county, or by the state for the location of Department of Motor Vehicles facilities, adequately furnished, and located within the city or within the county or a city in which the county courthouse is located. The governing body shall provide property damage liability and bodily injury liability coverage for the office and shall furnish the general registrar with necessary postage, stationery, equipment, and office supplies. The telephone number shall be listed in the local telephone directory separately or under the local governmental listing under the designation "Voter Registration."

No private business enterprise shall be conducted in the general registrar's office.

The general registrar's office in counties with a population under 10,000 and in cities with a population under 7,500 shall be open a minimum of three days each week and additional days as required by the general appropriation act. The general registrar's office in all other counties and cities shall be open a minimum of five days each week. The specific days of normal service each week for general registrars shall be determined by the State Board.

Additional hours, if any, that the general registrar's office is open for voter registration may be determined and set by the general registrar or the electoral board. (Code 1950, §§ 24-52, 24-52.1, 24-55, 24-59 through 24-61, 24-65, 24-66, 24-71 through 24-76, 24-90, 24-93, 24-94, 24-101, 24-111, 24-118.1; 1954, c. 691; 1958, c. 576; 1962, cc. 422, 475, 536; 1963, Ex. Sess., c. 2; 1964, c. 608; 1968, cc. 97, 141; 1970, c. 462, §§ 24.1-43, 24.1-46, 24.1-49; 1972, c. 620; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1976, cc. 12, 616; 1978, c. 778; 1979, c. 329; 1980, c. 639; 1981, c. 425; 1982, cc. 290, 650; 1983, cc. 398, 511; 1984, c. 480; 1985, cc. 197, 530; 1986, c. 558; 1988, cc. 305, 528; 1989, c. 743; 1991, cc. 42, 136; 1993, c. 641; 1997, cc. 650, 666; 2000, cc. 512, 556.)

The 2000 amendments. — The 2000 amendments by cc. 512 and 556 are identical, and inserted "or by the state for the location of Department of Motor Vehicles facilities," in the second sentence of the first undesignated paragraph.

§ 24.2-411.1. Offices of the Department of Motor Vehicles. — A. The Department of Motor Vehicles shall provide the opportunity to register to vote to each person who comes to an office of the Department to:

1. Apply for, replace, or renew a driver's license;
2. Apply for, replace, or renew a special identification card; or
3. Change an address on an existing driver's license or special identification card.

B. The method used to receive an application for voter registration shall avoid duplication of the license portion of the license application and require only the minimum additional information necessary to enable registrars to determine the voter eligibility of the applicant and to administer voter registration and election laws. A person who does not sign the registration

portion of the application shall be deemed to have declined to register at that time. The voter application shall include a statement that, if an applicant declines to register to vote, the fact the applicant has declined to register will remain confidential and will be used only for voter registration purposes.

Each application form distributed under this section shall be accompanied by the following statement featured prominently in boldface capital letters: **“WARNING: INTENTIONALLY MAKING A MATERIALLY FALSE STATEMENT ON THIS FORM CONSTITUTES THE CRIME OF ELECTION FRAUD, WHICH IS PUNISHABLE UNDER VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO 10 YEARS IN PRISON, OR UP TO 12 MONTHS IN JAIL AND/OR FINED UP TO \$2,500.”**

Any completed application for voter registration submitted by a person who is already registered shall serve as a written request to update his registration record. Any change of address form submitted for purposes of a motor vehicle driver's license or special identification card shall serve as notification of change of address for voter registration for the registrant involved unless the registrant states on the form that the change of address is not for voter registration purposes. If the information from the notification of change of address for voter registration indicates that the registered voter has moved to another general registrar's jurisdiction within the Commonwealth, the notification shall be treated as a request for transfer from the registered voter. The notification and the registered voter's registration record shall be transmitted as directed by the State Board of Elections to the appropriate general registrar who shall send a voter registration card as confirmation of the transfer to the voter pursuant to § 24.2-424.

C. The completed voter registration portion of the application shall be transmitted as directed by the State Board not later than five business days after the date of receipt.

D. The State Board of Elections shall maintain statistical records on the number of applications to register to vote with information provided from the Department of Motor Vehicles.

E. A person who provides services at the Department of Motor Vehicles shall not disclose, except as authorized by law for official use, the social security number of any applicant for voter registration. (1996, cc. 72, 73.)

§ 24.2-411.2. State-designated voter registration agencies. — A. The following agencies are designated as voter registration agencies in compliance with the National Voter Registration Act (42 U.S.C. § 1973gg et seq.) and shall provide voter registration opportunities at their state, regional, or local offices, depending upon the point of service:

1. Agencies whose primary function is to provide public assistance, including agencies that provide benefits under the Aid to Families with Dependent Children program; Special Supplemental Food Program for Women, Infants, and Children; Medicaid program; or Food Stamps program;
2. Agencies whose primary function is to provide state-funded programs primarily engaged in providing services to persons with disabilities;
3. Armed Forces recruitment offices; and
4. The regional offices of the Department of Game and Inland Fisheries and the offices of the Virginia Employment Commission in the Northern Virginia Planning District 8.

B. The Secretary of the State Board of Elections, with the assistance of the Office of the Attorney General, shall compile and maintain a list of the specific agencies covered by subdivisions A 1 and A 2 which, in the legal opinion of the Attorney General, must be designated to meet the requirements of the National Voter Registration Act. The Secretary of the State Board of Elections

shall notify each agency of its designation and thereafter notify any agency added to or deleted from the list.

C. At each voter registration agency, the following services shall be made available on the premises of the agency:

1. Distribution of mail voter registration forms provided by the State Board of Elections;

2. Assistance to applicants in completing voter registration application forms, unless the applicant refuses assistance; and

3. Receipt of completed voter registration application forms.

D. A voter registration agency, which provides service or assistance in conducting voter registration, shall make the following services available on the premises of the agency:

1. Distribution with each application for its service or assistance, or upon admission to a facility or program, and with each recertification, readmission, renewal, or change of address form, of a voter registration application prescribed by the State Board of Elections that complies with the requirements of the National Voter Registration Act (42 U.S.C. § 1973gg et seq.).

2. Provision, as part of the voter registration process, of a form that includes:

a. The question: "If you are not registered to vote where you live now, would you like to apply to register to vote here today?"

b. If the agency provides public assistance, the statement: "Applying to register or declining to register to vote will not affect the amount of assistance that you will be provided by this agency."

c. Boxes for the applicant to check to indicate whether the applicant would like to register, declines to register to vote, or is already registered (failure to check any box being deemed to constitute a declination to register for purposes of subdivision 2 a of this subsection), together with the statement (in close proximity to the boxes and in prominent type): "IF YOU DO NOT CHECK ANY BOX, YOU WILL BE CONSIDERED TO HAVE DECIDED NOT TO REGISTER TO VOTE AT THIS TIME."

d. The statement: "If you would like help in filling out the voter registration application form, we will help you. The decision whether to seek help or accept help is yours. You may fill out the application form in private."

e. The statement: "If you believe that someone has interfered with your right to register or to decline to register to vote, or your right to privacy in deciding whether to register or in applying to register to vote, you may file a complaint with the State Board of Elections." The statement shall include the address and telephone number of the State Board.

f. The following statement accompanying the form which features prominently in boldface capital letters: "**WARNING: INTENTIONALLY MAKING A MATERIALLY FALSE STATEMENT ON THIS FORM CONSTITUTES THE CRIME OF ELECTION FRAUD, WHICH IS PUNISHABLE UNDER VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO 10 YEARS IN PRISON, OR UP TO 12 MONTHS IN JAIL AND/OR FINED UP TO \$2,500.**"

3. Provision to each applicant who does not decline to register to vote of the same degree of assistance with regard to the completion of the voter registration application as is provided by the office with regard to the completion of its own applications, unless the applicant refuses assistance.

E. If a voter registration agency designated under subsection A of this section provides services to a person with a disability at the person's home, the agency shall provide the voter registration services as provided for in this section.

F. A person who provides services at a designated voter registration agency shall not:

1. Seek to influence an applicant's political preference;
2. Display any material indicating the person's political preference or party allegiance;
3. Make any statement to an applicant or take any action the purpose or effect of which is to lead the applicant to believe that a decision to register or not to register has any bearing on the availability of services or benefits; or
4. Disclose, except as authorized by law for official use, the social security number of any applicant for voter registration.

Any person who is aggrieved by a violation of this subsection may provide written notice of the violation to the State Board of Elections. The Board shall be authorized to cooperate with the agency to resolve the alleged violation. Nothing contained in this subsection shall prohibit an aggrieved person from filing a complaint in accordance with § 24.2-1019 against a person who commits any election law offense enumerated in §§ 24.2-1000 through 24.2-1016.

G. A completed voter registration application shall be transmitted as directed by the State Board of Elections not later than five business days after the date of receipt.

H. Each state-designated voter registration agency shall maintain such statistical records on the number of applications to register to vote as requested by the State Board of Elections. (1996, cc. 72, 73.)

§ 24.2-412. Other locations and times for voter registration. — A. In addition to voter registration locations provided for in §§ 24.2-411, 24.2-411.1, and 24.2-411.2, opportunities for voter registration may be provided at other agency offices, business offices, establishments and occasional sites open to the general public, and shall be provided as required by this section. Voter registration shall be conducted only in public places open to the general public and at preannounced hours. Assistant registrars should serve during such hours and at such places. The conduct of voter registration by the general registrar or an assistant registrar in public places at preannounced hours shall not be deemed solicitation of registration.

B. The general registrar is authorized to set within his jurisdiction ongoing locations and times for registration in local or state government agency offices or in businesses or other establishments open to the general public, subject to the approval of, and pursuant to an agreement with, the head of the government agency, the owner or manager of the business or establishment, or the designee of either. The agreement shall provide for the appointment of employees of the agency, business, or establishment to serve as assistant registrars and shall be in writing and approved by the local electoral board prior to implementation.

Employees of the agency, business, or establishment who are appointed to serve as assistant registrars may be nonresidents of the jurisdiction they are appointed to serve, provided that (i) they are qualified voters of the Commonwealth and (ii) they serve only at their place of employment within the jurisdiction they are appointed to serve.

C. The general registrar or electoral board may set additional occasional sites and times for registration within the jurisdiction. A multi-family residential building not usually open to the public may be used as an occasional registration site so long as the public has free access to the site during the time for registering voters. (Code 1950, §§ 24-74 through 24-76, 24-78; 1963, Ex. Sess., c. 2; 1970, c. 462, § 24.1-49; 1975, c. 515; 1976, c. 616; 1984, c. 480; 1985, c. 530; 1986, c. 248, § 24.1-45.2; 1987, c. 478; 1988, c. 305; 1989, c. 743; 1991, cc. 42, 136; 1993, c. 641; 1996, cc. 72, 73; 1997, cc. 523, 539.)

§ 24.2-413. Accessible registration locations. — The office of the general registrar, and each agency, business, and establishment set for registra-

tion pursuant to §§ 24.2-411.1, 24.2-411.2 and subsection B of § 24.2-412 shall be accessible as required by the provisions of the Virginians with Disabilities Act (§ 51.5-1 et seq.), the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee et seq.), and the Americans with Disabilities Act relating to public services (42 U.S.C. § 12131 et seq.). The State Board shall provide instructions to the Department of Motor Vehicles, state-designated voter registration agencies, local electoral boards and general registrars to assist them in complying with the requirements of the Acts.

In the selection of additional registration sites as provided in § 24.2-412, consideration shall be given to accessibility so that a reasonable number of accessible sites are provided and the requirements of the above cited Acts are met. (Code 1950, §§ 24-52, 24-52.1, 24-55, 24-61, 24-65, 24-66, 24-118.1; 1954, c. 691; 1962, c. 475; 1964, c. 608; 1968, cc. 97, 141; 1970, c. 462, § 24.1-43; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1976, c. 12; 1978, c. 778; 1981, c. 425; 1982, c. 290; 1983, c. 511; 1984, c. 480; 1985, c. 197; 1986, c. 558; 1988, c. 528; 1993, c. 641; 1996, cc. 72, 73.)

§ 24.2-414. Final registration day. — Each general registrar shall, twenty-nine days before the day fixed by law for every primary election and every general election that will be held in his jurisdiction, hold a final day of registration for the election. On the final day of registration, the principal office of the general registrar shall be open a minimum of eight hours. The registrar shall make a list by name of any persons in line at the time of closing and shall permit those persons to complete an application to register or to make any necessary changes to their registration records. (Code 1950, §§ 24-74 through 24-76, 24-78; 1963, Ex. Sess., c. 2; 1970, c. 462, § 24.1-49; 1975, c. 515; 1976, c. 616; 1984, c. 480; 1985, c. 530; 1988, c. 305; 1989, c. 743; 1991, cc. 42, 136; 1993, cc. 545, 619, 641; 2001, cc. 613, 632.)

Editor's note. — Acts 1993, cc. 545 and 619 amended former § 24.1-49, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above. In accordance with cc. 545 and 619, the amendments substituted "twenty-nine" for "thirty-one" in the first sentence.

The 2001 amendments. — The 2001 amendment by cc. 613 and 632 are identical, and deleted "and shall be closed no later than 5:00 p.m." following "eight hours" in the second sentence.

§ 24.2-415. Notice of terms and locations for registration. — In January each year, each general registrar shall give notice for that year of all scheduled dates, hours, and localities for voter registration. In addition, he shall give a separate notice of the date, hours, and locations for registration on the final day of registration at least ten days before each final day. The annual notice and the notice for the final day shall each be posted at the courthouse and published at least once in a newspaper of general circulation in the county or city.

Three days' advance notice shall be given for additional times and locations not listed in the annual schedule. This notice shall be either published at least once in a newspaper of general circulation in the county or city or announced at least twice on a television station serving the county or city. (Code 1950, §§ 24-74 through 24-76, 24-78; 1963, Ex. Sess., c. 2; 1970, c. 462, § 24.1-49; 1975, c. 515; 1976, c. 616; 1984, c. 480; 1985, c. 530; 1988, c. 305; 1989, c. 743; 1991, cc. 42, 136; 1993, c. 641.)

Cross references. — For constitutional provision requiring General Assembly to establish

a uniform system for permanent registration of voters, see Va. Const., Art. II, § 4.

§ 24.2-415.1. Persons authorized to receive voter registration applications. — A. Any designated employee of an office of the Department of Motor Vehicles, state-designated voter registration agency, or Armed Forces recruitment office shall be authorized to receive a voter registration application when hand delivered by the applicant during the hours that the office is open.

B. The registration date for a valid voter registration application that has been hand delivered is the date when received by any general registrar or any person authorized to receive voter registration applications pursuant to subsection A of this section. (1996, cc. 72, 73.)

§ 24.2-416. Closing registration records before elections. — In any county, city, or town in which an election is being held, the registration records shall be closed for the purpose of registering voters on the election day and during the period in advance of the election as provided in this section. The registration records shall be closed during the twenty-eight days before a primary or general election. If the registration records have not been closed previously for a primary or general election, they shall be closed during the six days before a special election called by the Governor, Speaker of the House of Delegates, or President pro tempore of the Senate, or pursuant to rule or resolution of either house of the General Assembly and during the thirteen days before any other special election. (Code 1950, §§ 24-82, 24-83.1; 1962, c. 536; 1970, c. 462, § 24.1-50; 1973, c. 30; 1975, c. 515; 1993, c. 641.)

ARTICLE 3.1.

Mail Registration.

§ 24.2-416.1. Voter registration by mail. — A. A person may apply to register to vote by mail by completing and returning a mail voter registration application form in the manner and time provided by law.

B. Any person, who registers to vote by mail pursuant to this article and who has not previously voted in the county or city in which he registers to vote, shall be required to vote in person. However, this requirement to vote in person shall not apply to a person who (i) is entitled to vote by absentee ballot under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff-1 et seq.); (ii) is provided the right to vote otherwise than in person under § 3 (b) (2) (B) (ii) of the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee-1 (b) (2) (B) (ii)); (iii) is entitled to vote otherwise than in person under other federal law; or (iv) is a full-time student in an institution of higher learning. (1996, cc. 72, 73.)

§ 24.2-416.2. Mail voter registration application forms. — Notwithstanding the provisions of § 24.2-418, the national mail voter registration application form promulgated by the Federal Election Commission pursuant to the National Voter Registration Act (42 U.S.C. § 1973gg et seq.) shall be accepted for the registration of otherwise qualified voters to vote in federal, state, and local elections. In addition to the national form promulgated by the Federal Election Commission, the State Board of Elections shall design and distribute a state mail voter registration application form. Such state form shall include the eligibility requirements for registration as provided in this title and shall require each applicant to provide the information required subject to felony penalties for making false statements pursuant to § 24.2-1016.

Each state form shall be accompanied by the following statement featured prominently in boldface capital letters: **“WARNING: INTENTIONALLY**

MAKING A MATERIALLY FALSE STATEMENT ON THIS FORM CONSTITUTES THE CRIME OF ELECTION FRAUD, WHICH IS PUNISHABLE UNDER VIRGINIA LAW AS A FELONY. VIOLATORS MAY BE SENTENCED TO UP TO 10 YEARS IN PRISON, OR UP TO 12 MONTHS IN JAIL AND/OR FINED UP TO \$2,500." (1996, cc. 72, 73.)

§ 24.2-416.3. Distribution of mail voter registration application forms. — The State Board of Elections shall make available to any individual or group a reasonable number of mail voter registration application forms. (1996, cc. 72, 73.)

§ 24.2-416.4. Return of mail voter registration applications. — A. Notwithstanding the provisions of § 24.2-416, a mail voter registration application returned through the United States Postal Service shall be deemed to have been made as of the date of the postmark affixed to such application by the United States Postal Service. If no such postmark is affixed or if the postmark affixed by the United States Postal Service is illegible or bears no date, such application shall be deemed to have been timely if received through the United States mail no later than five days following the time for the closing of the registration books pursuant to § 24.2-416.

B. In any other case, a completed mail voter registration application shall be deemed timely if received by any general registrar or any person authorized to receive voter registration applications pursuant to § 24.2-415.1, by the deadline provided for in § 24.2-416 for closing the registration books. (1996, cc. 72, 73.)

§ 24.2-416.5. Social security number not to be disclosed. — Any person assisting an applicant with the completion or return of a mail voter registration application shall not copy, disclose or make any use of the social security number of the applicant except as authorized by law for official use. (1996, cc. 72, 73.)

ARTICLE 4.

Registration of Voters.

§ 24.2-417. Persons to be registered. — Each registrar shall register every resident of his county or city who has the qualifications required by the Constitution of Virginia and this title and who applies for registration or transfer of his registration from another county or city in the Commonwealth at the time and in the manner required by law.

Any person, once properly registered, shall remain registered unless his registration is cancelled pursuant to Article 5 (§ 24.2-427 et seq.) of this chapter. (Code 1950, §§ 24-67, 24-68; 1952, c. 341; 1958, c. 576; 1960, c. 288; 1962, c. 536; 1963, Ex. Sess., c. 2; 1970, c. 462, §§ 24.1-47, 24.1-48; 1971, Ex. Sess., cc. 119, 205; 1972, c. 620; 1974, c. 428; 1977, c. 490; 1980, c. 639; 1989, c. 138; 1992, c. 433; 1993, c. 641; 1996, cc. 72, 73; 2000, c. 857.)

Cross references. — As to free elections and the right of suffrage, see Va. Const., Art. I, § 6. As to persons excluded from registering and voting, see Va. Const., Art. II, § 1. For constitutional provision as to registration, see Va. Const., Art. II, § 2. As to constitutional prohibition of religious tests and restrictions, see Va. Const., Art. I, § 16.

The 2000 amendments. — The 2000

amendment by c. 857 inserted "or transfer of his registration from another county or city in the Commonwealth" following "registration" in the first undesignated paragraph.

Voter's registration properly cancelled. — Although individual presented evidence that he owned a house in Springfield, the evidence was unrefuted that he leased the property to others and did not dwell there. The fact that he

listed the Springfield address on his motor vehicle operator's license, paid personal property tax on his automobile to Fairfax County, and was seeking employment in the Washington, D.C. metropolitan area, did not alter the conclusion that he was not a domiciliary of Fairfax County, because he did not live in that

locality with the intent to remain there for an unlimited time. Further, he did not have a place of abode in Fairfax County. Thus, the trial court did not err in ruling that the registrar properly cancelled his voter registration. *Sachs v. Horan*, 252 Va. 247, 475 S.E.2d 276 (1996).

§ 24.2-417.1. Registration residence requirements; presumptions in certain cases. — In determining the residence as defined in § 24.2-101 and the domicile and place of abode of a participant in the American Conservation and Youth Service Corps provided for by federal law (42 U.S.C. § 12655 et seq.), there shall be a presumption that a participant in the Corps who was domiciled and had a place of abode in Virginia at the time of entering the Corps continues to be domiciled and retains the same place of abode unless the participant expressly states otherwise. (1995, c. 231.)

§ 24.2-418. Application for registration. — Each applicant to register shall provide, subject to felony penalties for making false statements pursuant to § 24.2-1016, the information necessary to complete the application to register. Unless physically disabled, he shall sign the application. The application to register shall be only on a form or forms prescribed by the State Board.

The form of the application to register shall require the applicant to provide the following information: full name; gender; date of birth; social security number, if any; whether the applicant is presently a United States citizen; address of residence in the precinct; place of last previous registration to vote; and whether the applicant has ever been adjudicated incapacitated or convicted of a felony, and if so, under what circumstances the applicant's right to vote has been restored.

The form shall permit any active or retired law-enforcement officer, as defined in § 9.1-101 and in 5 U.S.C.A. § 8331 (20) but excluding officers whose duties relate to detention as defined in paragraphs (A) through (D) of § 8331 (20), to furnish, in addition to his residence street address, a post office box address located within the Commonwealth to be included in lieu of his street address on the lists of registered voters and persons who voted, which are furnished pursuant to §§ 24.2-405 and 24.2-406, or on voter registration records made available for public inspection pursuant to § 24.2-444.

The form shall permit any party granted a protective order issued by or under the authority of any court of competent jurisdiction, including but not limited to courts of the Commonwealth of Virginia, to furnish, in addition to his street address, a post office box address located within the Commonwealth to be included in lieu of his street address on the lists of registered voters and persons who voted, which are furnished pursuant to §§ 24.2-405 and 24.2-406, or on voter registration records made available for public inspection pursuant to § 24.2-444. (Code 1950, §§ 24-28, 24-68; 1952, c. 341; 1958, c. 576; 1960, c. 288; 1962, c. 536; 1968, c. 97; 1970, c. 462, §§ 24.1-22, 24.1-48; 1971, Ex. Sess., cc. 205, 247; 1972, c. 620; 1974, c. 428; 1975, c. 515; 1977, c. 490; 1980, c. 639; 1989, c. 138; 1992, c. 433; 1993, c. 641; 1994, c. 250; 1995, c. 314; 1996, c. 251; 1997, cc. 346, 801; 2001, cc. 612, 626.)

The 2001 amendments. — The 2001 amendment by cc. 612 and 626 are identical, and in the third and fourth paragraphs, substituted "located within the Commonwealth" for "for his residence," and inserted "or on voter registration records made available for public

inspection pursuant to § 24.2-444" at the end thereof; and substituted "issued by or under the authority of any court of competent jurisdiction, including but not limited to courts of the Commonwealth of Virginia" for "as described in §§ 16.1-253.1, 16.1-253.4, 16.1-279.1 and 18.2-

60.3" in the fourth paragraph.

Providing false address. — A defendant who willfully provides false information concerning his address in a voter registration form

may be prosecuted for election fraud under § 24.2-1016. *Wilson v. Commonwealth*, No. 2061-98-4 (Ct. of Appeals May 2, 2000).

§ 24.2-419. Absentee application for registration. — The following persons are entitled to register by absentee application if they are eligible to be registered and if, by reason of active duty or employment, they are normally absent from the city or county in which they reside:

1. Any member of a uniformed service of the United States, as defined in 42 U.S.C. § 1973ff-6 (7), who is on active duty.
2. Any member of the merchant marine of the United States.
3. Any person who resides temporarily outside of the United States by virtue of his employment.
4. Any spouse or dependent residing with a person listed in subdivisions 1, 2, and 3 of this section.

Notwithstanding the provisions of § 24.2-416, the registration application from a person listed in subdivision 1 or 2 of the preceding paragraph, or his spouse or dependent, may accompany an application for an absentee ballot and shall be on a form prescribed by the State Board. (Code 1950, § 24-68; 1952, c. 341; 1958, c. 576; 1960, c. 288; 1962, c. 536; 1970, c. 462, § 24.1-48; 1971, Ex. Sess., c. 205; 1972, c. 620; 1974, c. 428; 1977, c. 490; 1980, c. 639; 1989, c. 138; 1992, c. 433; 1993, c. 641; 1995, c. 296.)

§ 24.2-420: Repealed by Acts 1995, c. 296.

§ 24.2-420.1. Extended time for certain persons to register. — A. Notwithstanding the provisions of § 24.2-416, the following persons shall be entitled to register in person up to and including the day of the election:

1. Any member of a uniformed service of the United States, as defined in 42 U.S.C. § 1973ff-6 (7), who is on active duty;
2. Any member of the merchant marine of the United States;
3. Any person who resides temporarily outside of the United States by virtue of his employment; and
4. Any spouse or dependent residing with a person listed in subdivision 1, 2, or 3 of this subsection.

The provisions of this subsection shall apply only to those persons who are otherwise qualified to register and who, by reason of such active duty or employment, either (i) are normally absent from the city or county in which they reside or (ii) have been absent from such city or county and returned to reside there during the twenty-eight days immediately preceding the election.

B. Notwithstanding the provisions of § 24.2-416, any person who was on active duty as a member of a uniformed service of the United States and discharged from the uniformed service during the sixty days immediately preceding the election, and his spouse or dependent, shall be entitled to register, if otherwise qualified, in person up to and including the day of the election.

C. The State Board shall prescribe procedures for the addition of persons registered under this section to the lists of registered voters. (1995, c. 296.)

§ 24.2-421: Repealed by Acts 1997, cc. 523 and 539.

§ 24.2-422. Appeal of person denied registration. — A. A person denied registration shall have the right to appeal, without payment of writ tax or giving security for costs, to the circuit court of the county or city in which he

offers to register by filing with the clerk of the court, within ten days after the denial, a petition in writing to have his right to register determined.

The petitioner may file his petition by completing and filing a form which shall be prescribed by the State Board and which shall be used by the general registrar to notify an applicant of the denial of his application to register and of the reasons for the denial. The form shall (i) state that an applicant denied registration has the right to appeal to the circuit court of the county or city in which he offers to register, (ii) give the name and address of the clerk of the circuit court for such county or city (to be supplied by the general registrar), (iii) state that a filing fee of ten dollars must be paid when filing the petition, (iv) contain a statement by which the applicant may indicate his desire to petition the court to have his right to register determined, and (v) provide space for the applicant to state the facts in support of his right to register.

On the filing of a petition to have the right to register determined, the clerk of the court shall immediately bring the matter to the attention of the chief judge of the court for the scheduling of a hearing on the petition. The matter shall be heard and determined on the face of the petition, the answer made in writing by the general registrar, and any evidence introduced as part of the proceedings. The proceedings shall take precedence over all other business of the court and shall be heard as soon as possible.

On the filing of the petition, the clerk of the court shall immediately give notice to the attorney for the Commonwealth for his county or city, who shall appear and defend against the petition on behalf of the Commonwealth.

Judgment in favor of the petitioner shall entitle him to registration. From a judgment rendered against the petitioner, an appeal shall lie to the Supreme Court of Virginia.

B. The general registrar shall send a new application for registration to the applicant with the form prescribed in subsection A. The general registrar shall advise the applicant that he may complete and return the new application, in lieu of filing an appeal, if the reason stated for denial is that the applicant has failed to sign the application or failed to provide a required item of information on the application. Any applicant who returns a second application and whose second application is denied shall have the right to appeal provided in subsection A.

C. The provisions of § 24.2-416, pertaining to the closing of registration records in advance of an election, shall apply to any application submitted pursuant to subsection B following a denial of registration. (Code 1950, § 24-112; 1970, c. 462, § 24.1-67; 1974, c. 428; 1985, c. 351; 1993, c. 641; 1997, c. 114; 2001, c. 627.)

Cross references. — For constitutional requirement that General Assembly provide for appeal by persons denied registration, see Va. Const., Art. II, § 4.

The 2001 amendments. — The 2001 amendment by c. 627, in subsection B, deleted "of this section" following "in subsection A" in two places, and added subsection C.

Editor's note. — The cases cited below were decided under former law corresponding to this section.

The State provides a remedy in former § 24.1-67 for anyone improperly denied registration. *Rawlings v. Hardaway*, 427 F.2d 1167 (4th Cir. 1970).

Mandamus is proper remedy for denial of opportunity to make application. — An appeal does not lie under former § 24.1-67 from

the refusal of the registrar to allow a person to make application to be registered as a voter, but from the rejection of such an application by the registrar. In case of the denial of the opportunity to make application, the proper remedy is by mandamus. *Fleener v. Dorton*, 187 Va. 659, 47 S.E.2d 329 (1948).

But it will not lie to compel registrar to purge list. — In view of the nature of the duties devolved upon the registrar and of the remedies afforded by former § 24.1-67 and former § 24.1-59 et seq., mandamus will not lie against a registrar to compel him to purge his list of names alleged to have been improperly registered by him. *Spilster v. Guy*, 107 Va. 811, 58 S.E. 769 (1907).

Former § 24.1-67 makes the appeal accessible on a very simple record. *Manard v.*

Miller, 53 F.R.D. 610 (E.D. Va. 1971), aff'd, 405 U.S. 982, 92 S. Ct. 1253, 31 L. Ed. 2d 449 (1972).

Application held sufficient on appeal. — Where the application for registration filed by a petitioner was not in good form, and showed that he had comparatively little education, but was made and signed by him in his own handwriting, in the presence of the registrar, without aid, suggestion or memorandum, was ad-

ressed to the proper officer, gave substantially the information which Va. Const., Art. II, § 2, requires, and disclosed nothing for which the Constitution provides that a person shall be excluded from registering and voting, it was held that the application was sufficient in law, and that the registrar erred in refusing to register the applicant. *Davis v. Allen*, 157 Va. 84, 160 S.E. 85 (1931).

§ 24.2-423. Notice of change of name of registered voter. — Whenever a registered voter changes his name, either by marriage or order of court, or otherwise, the voter shall notify in writing the general registrar of the jurisdiction where he is registered. The general registrar shall enter the new name on the registration records and issue the voter a new voter registration card. (Code 1950, § 24-81; 1970, c. 462, § 24.1-51; 1993, c. 641.)

§ 24.2-424. Change of registered voter's address within the Commonwealth. — A. Whenever a registered voter changes his place of residence within the Commonwealth, he shall promptly notify any general registrar of the address of his new residence. Such notice may be made in person, in writing, by return of the voter registration card noting the new address, or on a form approved by the State Board of Elections. The notice in writing may be provided by mail or by facsimile and shall be signed by the voter unless he is physically unable to sign, in which case his own mark acknowledged by a witness shall be sufficient signature. The fact that a voter provides an address on a candidate or referendum petition that differs from the address for the voter on the voter registration system shall not be deemed sufficient notice, in and of itself, to change the voter's registration address. Any statements made by any voter applying for transfer are subject to felony penalties for making a false statement pursuant to § 24.2-1016.

B. If the voter has moved within the same county or city, on receipt of the notification, the general registrar for that county or city shall (i) enter the new address on the registration record; (ii) if satisfied that the registered voter has moved into another precinct within the same county or city, transfer the registration of the voter to that precinct; and (iii) issue the voter a new voter registration card. This transfer may be entered in the registration records at any time the registration records are not closed pursuant to § 24.2-416.

C. Any request for transfer or change of address within the Commonwealth delivered to any registrar shall be forwarded to the general registrar for the city or county in the Commonwealth where the voter now resides. When forwarding said notice, or upon request from the registrar for the county or city where the voter now resides, the registrar for the county or city where the voter formerly resided shall forward the original application for registration to the registrar for the voter's new locality.

D. Upon receipt of the voter's original registration application, and notice as specified in subsection A of this section indicating the voter's current residence, the registrar for the county or city in which the voter currently resides shall: (i) enter the new address on the registration record; (ii) if satisfied that the registered voter has moved into a precinct within that county or city, transfer the registration of the voter to that precinct; (iii) issue the voter a new voter registration card; and (iv) notify the registrar of the locality where the voter formerly resided that the registration has been transferred. This transfer may be entered in the registration records at any time the registration records are not closed pursuant to § 24.2-416. (Code 1950, § 24-85; 1970, c. 462, § 24.1-52; 1971, Ex. Sess., c. 247; 1977, c. 490; 1993, c. 641; 2000, c. 857; 2001, cc. 615, 625.)

Cross references. — For constitutional requirement that General Assembly provide for transfer of voters, see Va. Const., Art. II, § 4.

The 2000 amendments. — The 2000 amendment by c. 857, substituted “Commonwealth” for “same county or city” in the catchline, and inserted the subsection A designation; in the first sentence of subsection A, substituted “Commonwealth” for “same county or city”, and substituted “any” for “in writing the”; added the second, third, and fourth sentences in subsection A; inserted the subsection B designation; redesignated the former second

and third sentences of the section as subsection B; added “If the voter has moved within the same county or city” at the beginning of subsection B, and inserted “for that county or city” preceding “shall (i)” in the first sentence of subsection B; and added subsections C and D.

The 2001 amendments. — The 2001 amendment by c. 615 inserted “in writing may be provided by mail or by facsimile and” in the third sentence of subsection A.

The 2001 amendment by c. 625 added the fourth sentence in subsection A.

§ 24.2-425: Repealed by Acts 2000, c. 857, cl. 2.

Cross references. — As to authority for transfer of voter registrations, see § 24.2-424.

ARTICLE 5.

Cancellation of Registration.

§ 24.2-426: Repealed by Acts 1997, c. 805.

§ 24.2-427. Cancellation of registration by voter or for persons known to be deceased or disqualified to vote. — A. Any registered voter may cancel his registration and have his name removed from the central registration records by signing an authorization for cancellation and mailing or otherwise submitting the signed authorization to the general registrar. When submitted by any means other than when notarized or in person, such cancellation must be made at least twenty-nine days prior to an election in order to be valid in that election. The general registrar shall acknowledge receipt of the authorization and advise the voter in person or by first-class mail that his registration has been canceled within ten days of receipt of such authorization.

B. The general registrar shall cancel the registration of (i) all persons known by him to be deceased or disqualified to vote by reason of a felony conviction or adjudication of incapacity and (ii) all persons for whom a notice has been received, signed by the voter or the registration official of another jurisdiction, that the voter has moved from the Commonwealth. The notice received in clause (ii) shall be considered as a written request from the voter to have his registration cancelled. A voter’s registration may be cancelled at any time during the year in which the general registrar discovers that the person is no longer entitled to be registered.

C. The general registrar may cancel the registration of any person for whom a notice has been submitted to the Department of Motor Vehicles in accordance with the Driver License Compact set out in Article 18 (§ 46.2-483 et seq.) of Chapter 3 of Title 46.2 and forwarded to the general registrar, that the voter has moved from the Commonwealth; provided that the registrar shall mail notice of such cancellation to the person at both his new address, as reported to the Department of Motor Vehicles, and the address at which he had most recently been registered in Virginia. No general registrar may cancel registrations under this authority while the registration records are closed pursuant to § 24.2-416. No registrar may cancel the registration under this authority of any person entitled to register absentee under the provisions of § 24.2-419, and shall reinstate the registration of any otherwise qualified voter covered by

§ 24.2-419 who applies to vote within four years of the date of cancellation. (Code 1950, §§ 24-59, 24-60, 24-60.1, 24-71 through 24-73, 24-90, 24-93, 24-94, 24-101, 24-111; 1958, c. 576; 1962, cc. 422, 536; 1970, c. 462, § 24.1-46(12); 1972, c. 620; 1973, c. 30; 1974, c. 428; 1976, c. 616; 1979, c. 329; 1980, c. 639; 1982, c. 650; 1983, c. 398; 1984, c. 480; 1986, c. 558; 1990, c. 193; 1993, c. 641; 1996, cc. 72, 73; 1997, cc. 801, 805; 1999, c. 851; 2000, c. 857; 2001, c. 634.)

The 1999 amendment, in the first paragraph, substituted “and mailing or otherwise submitting the signed authorization to the general registrar” for “in person at the office of the general registrar or by otherwise submitting an authorization for cancellation, signed by him and notarized,” and added the last two sentences.

The 2000 amendments. — The 2000 amendment by c. 857 substituted “twenty-nine days” for “sixty days” in the second sentence of the first undesignated paragraph; and substituted “Commonwealth” for “county or city” at the end of the first sentence in the second undesignated paragraph.

The 2001 amendments. — The 2001 amendment by c. 634 added the subsection A and B designators to the first and second paragraphs, and added subsection C.

Mandamus will not lie against a registrar to compel him to purge his list of names alleged to have been improperly registered by him, in view of the nature of the duties devolved upon him, and of the remedies afforded by former § 24.1-59 and former §§ 24.1-60 through 24.1-66. *Spiliter v. Guy*, 107 Va. 811, 58 S.E. 769 (1907). See *Powell v. Smith*, 152 Va. 209, 146 S.E. 196 (1929) (decided under prior law).

§ 24.2-428. Regular periodic review of registration records; notice to voters identified as having moved; placement on inactive status for failure to respond to notice. — A. The State Board shall establish a voter list maintenance program using the change of address information supplied by the United States Postal Service through its licensees or by other reliable sources to identify voters whose addresses may have changed. Any such program shall be regular and periodic and shall be conducted at least annually. The program shall be completed not later than ninety days prior to the date of a federal primary or federal general election.

B. If it appears from information provided by the Postal Service or by other reliable sources that a voter has moved to a different address in the same county or city in which the voter is currently registered, the State Board of Elections shall provide to the general registrar the information necessary to change the registration records to show the new address, and the State Board of Elections or the general registrar shall send to the new address of the voter by forwardable mail, a notice of the change, along with a postage prepaid, pre-addressed return card by which the voter may verify or correct the address information.

C. If it appears from information provided by the Postal Service or by other reliable sources that a voter has moved to a different address not in the same county or city, the State Board of Elections or the general registrar shall send to the last known address of the voter by forwardable mail, a notice on a form prescribed by the State Board, along with a postage prepaid and pre-addressed return card on which the voter may state his current address.

D. The registered voter shall complete and sign the return card subject to felony penalties for making false statements pursuant to § 24.2-1016.

E. The general registrar shall correct his registration records from the information obtained from the return card. If the information indicates that the registered voter has moved to another general registrar's jurisdiction within the Commonwealth, the general registrar shall transfer the registration record, along with the return card, to the appropriate general registrar who shall treat the request for a change of address as a request for transfer and shall send a voter registration card as confirmation of the transfer to the voter pursuant to § 24.2-424. If the general registrar does not receive the return

card provided for in subsection C of this section within thirty days after it is sent to the voter, the registered voter's name shall be placed on inactive status. A registered voter's failure to receive the notice shall not affect the validity of the inactivation. (Code 1950, §§ 24-96, 24-97, 24-107; 1954, c. 690; 1962, c. 536; 1964, c. 538; 1970, c. 462, §§ 24.1-59, 24.1-60; 1972, c. 620; 1973, c. 30; 1975, c. 515; 1976, c. 616; 1982, c. 650; 1986, c. 241; 1990, c. 313; 1991, c. 10; 1993, c. 641; 1996, cc. 72, 73; 2000, c. 857.)

The 2000 amendments. — The 2000 Elections or the" preceding "general registrar" amendment by c. 857 inserted "State Board of in subsections B and C.

§ 24.2-428.1. Other procedures for assigning registered voters to inactive status. — In addition to the voter list maintenance program provided for in § 24.2-428, the general registrar and the registered voter shall follow the confirmation notification procedures set forth in subsections C through E of § 24.2-428 if a voter provides an address on a candidate or referendum petition that differs from the address for the voter on the voter registration system or if any of the following documents sent to the registered voter are returned by the Postal Service as undeliverable:

1. An acknowledgment of registration;
2. An acknowledgment of transfer to a new address;
3. An absentee ballot or application for an absentee ballot sent or provided in accordance with Chapter 7 (§ 24.2-700 et seq.);
4. Notification to a voter after a precinct reassignment;
5. Notification of a change of address sent to a voter in accordance with subsection B of § 24.2-428; or
6. Any official voter registration or election mail. (1996, cc. 72, 73; 2001, c. 625.)

The 2001 amendments. — The 2001 amendment by c. 625 inserted "if a voter provides an address on a candidate or referendum petition that differs from the address for the voter on the voter registration system or" in the introductory language.

§ 24.2-428.2. Return of registered voter to active status. — A registered voter shall be returned to active status from inactive status if, during the period beginning on the date the voter was assigned to inactive status and ending on the day of the second general election for federal office thereafter, the voter:

1. Notifies the general registrar of a change of address within the county or city;
2. Responds to a confirmation notice with information that the voter continues to reside at the registration address;
3. Votes or attempts to vote in a primary or a special or general election and, if necessary, corrects the registration record; or
4. Transfers his registration to another county or city within the Commonwealth, pursuant to § 24.2-424 or subsection E of § 24.2-428.

If the registered voter fails to take such action on or before the day of the second general election for federal office after the voter was placed on inactive status, the general registrar shall cancel the person's voter registration.

The general registrar shall post at the courthouse or have published in a newspaper of general circulation in his county or city a list of names of persons whose registration has been cancelled pursuant to this section. He shall deliver or mail, obtaining a certificate of mailing, a certified copy of the list to the chairman of each political party in his county or city. (1996, cc. 72, 73.)

§ 24.2-429. Maintenance of accurate registration records by general registrar; notice and hearing before cancellation. — Whenever a registered voter is alleged to be improperly registered, except for reason of removal of residence from the precinct, either by the general registrar or by any three qualified voters of the county or city who make such an allegation to the general registrar, the registrar shall post at the courthouse or publish in a newspaper of general circulation in his county or city the name of the registered voter on a list of persons whose registrations are to be cancelled by the general registrar. The list shall be certified by the registrar and delivered or sent by mail to the county or city chairman of each political party. If sent by mail, the general registrar shall obtain a certificate of mailing. In addition to the posted or published list, the general registrar shall send a notice by mail to the last known address of each registered voter on the list, stating the reasons provided by law for the cancellation, the facts on which the cancellation is based, and when the registrar, at his office during regular office hours, will hear testimony produced for or against the right of persons named in the notice to be retained on the registration records. The hearings shall be held not less than ten days after the mailing of the notice, and in no event shall be within sixty days of the general election in November or within thirty days of any other election in the county or city.

At the hearing, the registrar shall hear the testimony produced and shall determine if the registered voter named in the notice is qualified to vote in the county or city. If the person is no longer qualified to vote, the registrar shall cancel the voter's registration. Nothing contained in this section shall prevent the registered voter from applying to the general registrar for a transfer to his proper jurisdiction, provided the registration records are not closed as provided by law. The general registrar may continue the hearing for a period of not more than thirty days in order to complete his examination. If the registered voter so challenged fails to appear and defend his right to be registered, his registration shall be cancelled by the general registrar. (Code 1950, §§ 24-59, 24-60, 24-60.1, 24-71 through 24-73, 24-90, 24-93, 24-94, 24-97, 24-98, 24-101, 24-107, 24-108, 24-111; 1954, c. 690; 1958, c. 576; 1962, cc. 422, 536; 1964, c. 538; 1970, c. 462, §§ 24.1-46(13), 24.1-60, 24.1-61; 1972, c. 620; 1973, c. 30; 1974, c. 428; 1976, c. 616; 1979, c. 329; 1980, c. 639; 1982, c. 650; 1983, c. 398; 1984, c. 480; 1986, c. 558; 1990, c. 193; 1991, c. 10; 1993, c. 641; 1996, cc. 72, 73.)

Burden of proof regarding qualification.

— When a voter's registration is cancelled under this section, and he appeals the decision to the circuit court under § 24.2-430, the voter bears the burden of proving that he is qualified to vote in that locality. *Sachs v. Horan*, 252 Va. 247, 475 S.E.2d 276 (1996).

Voter's registration properly cancelled.

— Although individual presented evidence that he owned a house in Springfield, the evidence was unrefuted that he leased the property to others and did not dwell there. The fact that he listed the Springfield address on his motor

vehicle operator's license, paid personal property tax on his automobile to Fairfax County, and was seeking employment in the Washington, D.C. metropolitan area, did not alter the conclusion that he was not a domiciliary of Fairfax county, because he did not live in that locality with the intent to remain there for an unlimited time. Further, he did not have a place of abode in Fairfax County. Thus, the trial court did not err in ruling that the registrar properly cancelled his voter registration. *Sachs v. Horan*, 252 Va. 247, 475 S.E.2d 276 (1996).

§ 24.2-430. Appeal from decision of registrar. — Any person whose registration was cancelled in accordance with the decision of the general registrar pursuant to § 24.2-429, shall have the right of appeal, as provided in § 24.2-422, to the circuit court of the county or city in which he offers to register. Any qualified voter of the county or city shall have the same right of appeal from the decision of the general registrar refusing to cancel the

registration of any person alleged to be improperly registered. (Code 1950, §§ 24-99, 24-109; 1970, c. 462, § 24.1-62; 1993, c. 641.)

One denied registration has appeal as of right. — In addition to remedies provided by former § 24.1-62 and former §§ 24.1-63 through 24.1-65, any person who is denied registration may appeal as of right to the proper court. *Powell v. Smith*, 152 Va. 209, 146 S.E. 196 (1929) (decided under prior law).

Burden of proof regarding qualification. — When a voter's registration is cancelled under § 24.2-429, and he appeals the decision to the circuit court under this section, the voter bears the burden of proving that he is qualified to vote in that locality. *Sachs v. Horan*, 252 Va. 247, 475 S.E.2d 276 (1996).

§ 24.2-431. Petition to court objecting to registration. — In addition to challenging a voter's registration before the general registrar, any three qualified voters may file with the circuit court of the county or city in which they are registered, a petition stating their objections to the registration of any person whose name is on the registration records for their county or city. However, no petition may be filed if the only objection raised is based on removal of residence from the precinct. (Code 1950, § 24-102; 1970, c. 462, § 24.1-63; 1993, c. 641; 1996, cc. 72, 73.)

Cross references. — See notes to § 24.2-430.

Former §§ 24.1-63 through 24.1-66 negative right to inspect applications. — There is nothing in former §§ 24.1-63 through 24.1-66 to sustain the contention that applications for registration shall at all times be open to public inspection, not by express direction, but by implication of the statutes. The fact that the legislature, in the enactment of these sections, has provided a way by which the voters can have the applications for registration brought into court for inspection whenever necessary

for the protection of the public interest, negatives the suggestion that the public has, at all times, the right to inspect such applications. *Powell v. Smith*, 152 Va. 209, 146 S.E. 196 (1929) (decided under prior law).

They afford as complete relief as mandamus. — A petitioner will get as complete relief under former §§ 24.1-63 through 24.1-66 as he could secure if allowed to proceed by mandamus in order to purge the registration books. *Powell v. Smith*, 152 Va. 209, 146 S.E. 196 (1929) (decided under prior law).

§ 24.2-432. Notice to person objected to and decision of court. — Fifteen days' notice shall be given by the petitioners to any person whose registration is objected to pursuant to § 24.2-431, and the court shall summarily proceed to determine the right of the person to registration. The determination shall be without the necessity of formal pleadings and in preference to all other matters on the docket. An order of the court concerning registration of the voter shall not be limited by the provisions of § 24.2-416 requiring the registration records to be closed. (Code 1950, § 24-103; 1970, c. 462, § 24.1-64; 1993, c. 641.)

§ 24.2-433. Appeal from decision of court. — From the judgement of the court, an appeal shall lie, as a matter of right, to the Supreme Court of Virginia. The appeal shall be placed on the privileged docket and be heard at the next ensuing session of the court. (Code 1950, § 24-104; 1970, c. 462, § 24.1-65; 1974, c. 428; 1993, c. 641.)

§ 24.2-434. Presumption if petition not brought within six months of registration. — Unless the petition provided for in § 24.2-431 is filed within six months after the registration of any person, it shall be conclusively presumed in all proceedings where the right of such person to registration arises, by election officers and by judicial tribunals, or in election contests of any kind and character, that such person has complied with all the procedural requirements of the law in making an application for registration. (Code 1950, § 24-105; 1970, c. 462, § 24.1-66; 1993, c. 641.)

§ 24.2-435. Cancellation records to be retained for four years. — The registration records of voters whose registration has been cancelled pursuant to this article shall be retained for four years from the date of cancellation by the general registrar. (Code 1950, §§ 24-59, 24-60, 24-60.1, 24-71 through 24-73, 24-90, 24-93, 24-94, 24-96, 24-101, 24-111; 1958, c. 576; 1962, cc. 422, 536; 1970, c. 462, §§ 24.1-46(12), 24.1-59; 1972, c. 620; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1976, c. 616; 1979, c. 329; 1980, c. 639; 1982, c. 650; 1983, c. 398; 1984, c. 480; 1986, cc. 241, 558; 1990, cc. 193, 313; 1993, c. 641.)

ARTICLE 6.

Temporary Registration for Presidential Elections.

§§ 24.2-436 through 24.2-439: Repealed by Acts 2001, cc. 616 and 628.

ARTICLE 7.

Temporary Absentee Registration for Federal Elections.

§ 24.2-440. Eligibility for temporary registration by absentee application. — Any person who is entitled to register to vote in federal elections under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff et seq.) and is not eligible for permanent voter registration pursuant to Article 4 of this chapter, shall be eligible for temporary registration under this article to vote in any federal election. Federal elections include any general, special, or primary election for President, Vice-President, presidential electors, or a member of the United States Senate or House of Representatives. (1977, c. 305, § 24.1-72.12; 1980, c. 639; 1993, c. 641.)

§ 24.2-441. Application for temporary registration. — Any person intending to register and vote under the provisions of this article shall apply by mail to the general registrar of the county or city in which he wishes to vote prior to the federal election. The application shall be on a form prescribed or approved by the State Board. The application shall be signed by the applicant who shall provide, subject to felony penalties for making false statements pursuant to § 24.2-1016, the information required for registration under § 24.2-418, the applicant's resident address of previous domicile in Virginia and date of departure from this domicile, if applicable, and any information necessary to implement the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff et seq.). (1977, c. 305, § 24.1-72.13; 1982, c. 650; 1993, c. 641; 2000, c. 328.)

The 2000 amendments. — The 2000 amendment by c. 328 deleted "at least thirty days" following "to vote" in the first sentence.

§ 24.2-442. Registration records to be maintained by registrars; when registration permitted; lapse of registration. — The general registrar shall maintain and make available for inspection by any registered voter the applications for temporary registration for his jurisdiction and separate lists for each precinct of persons registering to vote in the federal election. Registration under this article shall be permitted from six months in advance of the federal election until the registration records are closed pursuant to § 24.2-416. After the federal election, registration under this article shall no longer be valid. (1977, c. 305, § 24.1-72.14; 1993, c. 641.)

§ 24.2-443. Absentee ballots for persons registered under this article. — In accordance with instructions provided by the State Board, the electoral board shall provide to any person registering under this article the ballot to vote absentee by mail for the federal election and no other ballot. The absentee ballots shall be voted by mail, handled, and counted with other absentee ballots voted by mail in accordance with the provisions of this title. (1977, c. 305, § 24.1-72.15; 1993, c. 641; 1999, c. 154.)

The 1999 amendment substituted "electoral board" for "general registrar" in the first sentence.

ARTICLE 7.1.

Temporary Registration for Certain Overseas Voters.

§ 24.2-443.1. Eligibility for temporary registration. — A. The provisions of this article shall apply to:

1. Any person who has been registered to vote pursuant to Article 4 (§ 24.2-417 et seq.) of this chapter, who moves overseas for purposes of employment, and who would continue to be eligible for permanent registration pursuant to Article 4 except for the fact that he has relinquished his place of abode in Virginia;

2. A spouse residing with a person who moves overseas for purposes of employment if the spouse has been registered to vote pursuant to Article 4 (§ 24.2-417 et seq.) of this chapter and would continue to be eligible for permanent registration pursuant to Article 4 except for the fact that they have relinquished their place of abode in Virginia; and

3. A dependent residing with a person who moves overseas for purposes of employment if the dependent has been registered to vote pursuant to Article 4 (§ 24.2-417 et seq.) of this chapter and would continue to be eligible for permanent registration pursuant to Article 4 except for the fact that they have relinquished their place of abode in Virginia.

B. The eligibility of a spouse or dependent to register pursuant to the provisions of this article shall be deemed separate from, and shall not depend on, the eligibility of the employee who moves overseas.

C. Temporary registration pursuant to this article shall entitle the overseas employee, the spouse or the dependents to vote in any state or local election held in the precinct in which the place of abode relinquished by the overseas employee, spouse or dependents is located provided that the individual seeking to register was both registered at and a resident of that place of abode immediately prior to moving overseas. Temporary registration pursuant to this article shall be permitted for the overseas employee, his spouse or dependent residing with him, only so long as the overseas employee, spouse, or dependent votes at least once every five years in an election held in the precinct in which he had been registered immediately preceding his moving overseas.

D. The provisions of this article shall apply to any person otherwise meeting the qualifications of this article who moved overseas on or after July 1, 1999. (1999, c. 795; 2001, c. 629.)

The 2001 amendments. — The 2001 amendment by c. 629 rewrote this section.

§ 24.2-443.2. Application for temporary registration. — Any person intending to register and vote under the provisions of this article shall apply to the general registrar of the county or city in which he had been registered

immediately preceding his moving overseas prior to each election in which he seeks to vote. The application shall be on a form prescribed by the State Board. The application shall be signed by the applicant who shall provide, subject to felony penalties for making false statements pursuant to § 24.2-1016, the information required for registration under § 24.2-418 and the provisions of this article, including the applicant's resident address of previous place of abode and domicile in Virginia and any additional information necessary to implement the provisions of this article. (1999, c. 795.)

§ 24.2-443.3. Registration records to be maintained by registrars; when registration permitted. — The general registrar shall maintain and make available for inspection by any registered voter the applications for temporary registration for his jurisdiction and separate lists for each precinct of persons registering to vote pursuant to this article. Registration under this article shall be permitted from six months in advance of the election until the registration records are closed pursuant to § 24.2-416. (1999, c. 795.)

§ 24.2-443.4. Absentee ballots for persons registered under this article. — In accordance with instructions provided by the State Board, the electoral board shall provide to any person registering under this article the ballot to vote absentee. The absentee ballots shall be voted, handled, and counted with other absentee ballots in accordance with the provisions of this title. (1999, c. 795.)

ARTICLE 8.

Registration Records Generally.

§ 24.2-444. Registration records open to public inspection. — A. Except for records relating to the declinations to register to vote or the identity of a voter registration agency through which a particular voter is registered, registration records shall be kept and preserved by the general registrar and shall be opened to inspection by any registered voter at the office of the general registrar when the office is open for business. The registration records shall be available for inspection by appointment, made by the general registrar for any reasonable time requested. No voter registration record containing an individual's social security number shall be made available for inspection or copying by anyone. No voter registration record containing an individual's residence address or any indicator of the voter's precinct shall be made available for inspection or copying by anyone if the individual has furnished a post office box address in lieu of his residence address as authorized by § 24.2-418.

B. The general registrars shall maintain for at least two years and shall make available for public inspection and copying and, where available, photocopying at a reasonable cost, all records concerning the implementation of programs and activities conducted for the purpose of ensuring the accuracy and currency of the registration records, except to the extent that the records relate to the declination to register to vote or the identity of a voter registration agency through which any particular voter is registered. The records maintained shall include lists of the names and addresses of all persons to whom notices are sent pursuant to §§ 24.2-428 and 24.2-428.1 and information concerning whether each person has responded to the notice as of the date that inspection of the records is made.

C. The State Board shall provide to each general registrar, for each precinct in his county or city, lists of registered voters for inspection. The lists shall contain the name, addresses, date of birth, gender and all election districts

applicable to each registered voter. New lists shall be provided not less than two times each year, and supplements containing additions, deletions and changes shall be provided not less than (i) weekly during the sixty days preceding any general election and (ii) monthly at other times. Notwithstanding any other provision of law regarding the retention of records, upon receipt of any new complete list, the general registrar shall destroy the obsolete list and its supplements. (Code 1950, § 24-113; 1970, c. 462, § 24.1-56; 1993, c. 641; 1994, c. 656; 1996, cc. 72, 73; 2001, cc. 612, 626.)

The 2001 amendments. — The 2001 amendment by cc. 612 and 626 are identical, and added the last sentence in subsection A.

Editor's note. — The cases cited below were decided under a former law corresponding to this section.

Intolerable burden on right to vote created. — To the extent that subdivision (8) of former § 24.1-23 and/or former § 24.1-56 permit the public disclosure of a potential voter's social security number as a condition of his right to vote, they create an intolerable burden on that right as protected by the First and Fourteenth Amendments. *Greidinger v. Davis*, 988 F.2d 1344 (4th Cir. 1993).

Former § 24.1-56 was intended as a safeguard against fraud. — The requirements of former § 24.1-56 that books be open to public inspection was intended as a safeguard against fraud, and must be liberally construed. *Clay v.*

Ballard, 87 Va. 787, 13 S.E. 262 (1891).

It does not impose duty of making copies of books. — Former § 24.1-56 does not expressly or by fair implication impose the duty upon the registrar of an election precinct to make copies of the registration books in his possession, or to permit such copies to be made. *Keller v. Stone*, 96 Va. 667, 32 S.E. 454 (1899).

Mandamus lies to enforce right of inspection. — Mandamus will lie to compel a registrar to allow any qualified voter to inspect and take copies of the registration books, as they are of a public nature, and every qualified voter has an interest in them. *Clay v. Ballard*, 87 Va. 787, 13 S.E. 262 (1891). See also *Keller v. Stone*, 96 Va. 667, 32 S.E. 454 (1899).

Despite fact that registrar is allowed no compensation for time lost in so doing. *Clay v. Ballard*, 87 Va. 787, 13 S.E. 262 (1891).

§ 24.2-445. Registration records controlling in event of conflict. — In the event of a conflict as to whether a person is registered to vote, the registration and voting records in the possession of the general registrar shall be controlling. (1970, c. 462, § 24.1-28; 1993, c. 641.)

§ 24.2-446. Reconstruction of destroyed registration records. — Whenever the registration records of a county or city have been destroyed by fire or otherwise, the State Board shall provide substitute active registration records obtained from the Virginia voter registration system.

For active registration records not retrievable from the system, the general registrar shall give notice that he is reconstructing such records by posting the notice at ten places in the jurisdiction or publishing it once in a newspaper having general circulation in the jurisdiction.

In the reconstruction, the registrar shall place on the registration records the names of all voters known by him who have been previously registered, or who can show by evidence satisfactory to the registrar that their names were on the old records and who still reside in the county or city. (Code 1950, § 24-91; 1970, c. 462, § 24.1-58; 1993, c. 641.)

§ 24.2-447. Persons registered prior to this title. — Any person validly registered to vote as of December 1, 1993, shall continue to be registered subject to the provisions of this title. (Code 1950, § 24-117; 1970, c. 462, § 24.1-69; 1993, c. 641.)

CANDIDATES FOR OFFICE

CHAPTER 5.

CANDIDATES FOR OFFICE.

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ARTICLE 1.

Qualifications and Requirements of All Candidates.

§ 24.2-500. **Qualification of candidates.** — In order to qualify as a candidate for any office of the Commonwealth, or of its governmental units, a person must be qualified to vote for and hold that office. In order to hold any office of the Commonwealth or its governmental units, elective by the people, the candidate must have been a resident of the Commonwealth for one year next preceding his election and be qualified to vote for that office. (Code 1950, § 24-132; 1970, c. 462, § 24.1-167; 1971, Ex. Sess., c. 226; 1973, c. 30; 1975, c. 515; 1976, c. 616; 1977, c. 490; 1978, c. 778; 1980, c. 639; 1982, c. 650; 1984, c. 480; 1987, Sp. Sess., c. 1; 1988, c. 469; 1990, cc. 476, 865; 1991, c. 137; 1993, c. 641.)

Cross references. — As to the required disclosure of certain personal and financial interests of legislators, see § 30-110.

Law Review. — For a symposium, "The Law and Economics of Elections," see 85 Va. L. Rev. 1533 (1999).

Former § 24.1-167 does not give prefer-

ence to incumbents. — Applying the tests of either equal protection or the First Amendment, former § 24.1-167 simply does not favor incumbents. *El-Amin v. State Bd. of Elections*, 717 F. Supp. 1138 (E.D. Va. 1989) (decided under prior law).

§ 24.2-501. **Statement of qualification as requirement of candidacy.**

— It shall be a requirement of candidacy for any office of the Commonwealth, or of its governmental units, that a person must file a written statement under oath, on a form prescribed by the State Board, that he is qualified to vote for and hold the office for which he is a candidate. Every candidate for election to statewide office, the United States House of Representatives, or the General Assembly shall file the statement with the State Board. Every candidate for any other office shall file the statement with the general registrar of the county or city where he resides. Each general registrar shall transmit to the State Board, immediately after the filing deadline, a list of the candidates who have filed statements of qualification. (Code 1950, § 24-132; 1970, c. 462, § 24.1-167; 1971, Ex. Sess., c. 226; 1973, c. 30; 1975, c. 515; 1976, c. 616; 1977, c. 490; 1978, c. 778; 1980, c. 639; 1982, c. 650; 1984, c. 480; 1987, Sp. Sess., c. 1; 1988, c. 469; 1990, cc. 476, 865; 1991, c. 137; 1993, c. 641.)

§ 24.2-502. **Statement of economic interests as requirement of candidacy.** — It shall be a requirement of candidacy that a written statement of economic interests shall be filed by (i) a candidate for Governor, Lieutenant Governor, or Attorney General with the Secretary of the Commonwealth, (ii) a candidate for Senate or House of Delegates with the clerk of the appropriate house, (iii) a candidate for a constitutional office with the general registrar for the county or city, and (iv) a candidate for member of the governing body or

elected school board of any county, city, or town with a population in excess of 3,500 persons with the general registrar for the county or city. The statement of economic interests shall be that specified in § 30-111 for candidates for the General Assembly and in § 2.2-3117 for all other candidates. The foregoing requirement shall not apply to a candidate for reelection to the same office who has met the requirement of annually filing a statement pursuant to § 2.2-3114, § 2.2-3115, or § 30-110.

The Secretary of the Commonwealth, the clerks of the Senate and House of Delegates, the general registrar, and the clerk of the local governing body shall transmit to the State Board, immediately after the filing deadline, a list of the candidates who have filed initial or annual statements of economic interests. The Secretary of the State Board shall notify the appropriate local electoral boards of the filings. (Code 1950, § 24-132; 1970, c. 462, § 24.1-167; 1971, Ex. Sess., c. 226; 1973, c. 30; 1975, c. 515; 1976, c. 616; 1977, c. 490; 1978, c. 778; 1980, c. 639; 1982, c. 650; 1984, c. 480; 1987, Sp. Sess., c. 1; 1988, c. 469; 1990, cc. 476, 865; 1991, c. 137; 1993, c. 641.)

Cross references. — As to required disclosure of certain personal and financial interests by state government officers and employees, see § 2.2-3114. As to required disclosure of certain personal and financial interests by local gov-

ernment officers and employees, see § 2.2-3115. As to required disclosure of personal and financial interests by certain constitutional officers, see § 2.2-3116.

§ 24.2-503. Deadlines for filing required statements; extensions. — The written statements of qualification and economic interests shall be filed by (i) primary candidates not later than the filing deadline for the primary, (ii) all other candidates for city and town offices to be filed at a May general election by 7:00 p.m. on the first Tuesday in March, (iii) candidates in special elections by the time of qualifying as a candidate, and (iv) all other candidates by 7:00 p.m. on the second Tuesday in June.

A statement shall be deemed to be timely filed if it is mailed postage prepaid to the appropriate office by registered or certified mail and if the official receipt therefor, which shall be exhibited on demand, shows mailing within the prescribed time limits.

The State Board may grant an extension of any deadline for filing either or both written statements and shall notify all candidates who have not filed their statements of the extension. Any extension shall be granted for a fixed period of time of ten days from the date of the mailing of the notice of the extension. (Code 1950, § 24-132; 1970, c. 462, § 24.1-167; 1971, Ex. Sess., c. 226; 1973, c. 30; 1975, c. 515; 1976, c. 616; 1977, c. 490; 1978, c. 778; 1980, c. 639; 1982, c. 650; 1984, c. 480; 1987, Sp. Sess., c. 1; 1988, c. 469; 1990, cc. 476, 865; 1991, c. 137; 1993, c. 641; 2000, c. 1045.)

The 2000 amendments. — The 2000 amendment by c. 1045 inserted "to be filed at a May general election" in clause (ii) in the first undesignated paragraph.

Virginia's legitimate, nondiscriminatory requirement that a candidate comply with a fixed deadline that it publicizes to all candidates falls well within the bounds of those legitimate administrative regulations that states must impose if elections are to be conducted fairly and efficiently. *El-Amin v. State Bd. of Elections*, 717 F. Supp. 1138 (E.D. Va. 1989) (decided under prior law).

The Constitution does not protect candidates

from their own carelessness, where they forget to timely file their financial disclosure statement, since this section places an insignificant burden on candidacy that is unlikely to pose any serious barrier to reasonably diligent candidates, and therefore does not appreciably restrict voters' choices, and at the same time it promotes an informed electorate without the potential for corruption inherent in the old statute, and therefore the voters' interests are better furthered with the statute than without it. *El-Amin v. State Bd. of Elections*, 717 F. Supp. 1138 (E.D. Va. 1989) (decided under prior law).

§ 24.2-503.1. Compliance with reporting requirements of Campaign Finance Disclosure Act as requirement of candidacy for certain offices. — It shall be a requirement of candidacy in any election for Governor, Lieutenant Governor, Attorney General, or the General Assembly that the candidate shall have filed the disclosure reports required by the Campaign Finance Disclosure Act (§ 24.2-900 et seq.) for any election in which he participated as a candidate for any such office and which was held within the five years preceding the date of the election in which he seeks to be a candidate. For the purposes of this section, the candidate shall be presumed to have complied with the candidate disclosure reporting requirements unless (i) the State Board of Elections or local electoral board, whichever is appropriate, has notified the candidate, at least sixty days prior to the applicable deadline for him to file his written statement of qualification set out in § 24.2-503, that he has failed to file a required report or reports and (ii) the candidate fails to file the specified report or reports by the applicable deadline for filing his written statement of qualification.

The authority of the State Board to grant an extension of the deadline established in § 24.2-503 shall include the authority to grant such extension with respect to the requirements of this section. (1994, c. 752.)

§ 24.2-504. Persons entitled to have name printed on ballot. — Only a person fulfilling all the requirements of a candidate shall have his name printed on the ballot for the election. No person shall have his name printed on the ballot for more than two offices at any one election. (Code 1950, § 24-132; 1970, c. 462, § 24.1-167; 1971, Ex. Sess., c. 226; 1973, c. 30; 1975, c. 515; 1976, c. 616; 1977, c. 490; 1978, c. 778; 1980, c. 639; 1982, c. 650; 1984, c. 480; 1987, Sp. Sess., c. 1; 1988, c. 469; 1990, cc. 476, 865; 1991, c. 137; 1993, c. 641; 2000, cc. 513, 552.)

Editor's note. — Acts 2000, cc. 513 and 522, cl. 2 provide: "That the provisions of this act shall be applicable to any election held on or after January 1, 2001."

amendments by cc. 513 and 552, effective July 1, 2000, and applicable to any election held on or after January 1, 2001, and added the last sentence.

The 2000 amendments. — The 2000

ARTICLE 2.

Independent Candidates.

§ 24.2-505. Declaration of candidacy required of independent candidates. — A. Any person, other than a candidate for a party nomination or a party nominee, who intends to be a candidate for any office to be elected by the qualified voters of the Commonwealth at large or of a congressional district shall file a declaration of candidacy with the State Board, on a form prescribed by the Board, designating the office for which he is a candidate. The written declaration shall be attested by two witnesses who are qualified voters of the Commonwealth or of the congressional district, or acknowledged before some officer authorized to take acknowledgements to deeds. The declaration shall be signed by the candidate, but if he is incapable of writing his proper signature then some mark adopted by him as his signature shall be acknowledged before some officer authorized to take acknowledgements to deeds.

The State Board shall notify the respective secretaries of the appropriate electoral boards of the qualified candidates who have so filed.

B. Any person, other than a candidate for a party nomination or party nominee, who intends to be a candidate for election to the General Assembly shall file a declaration of candidacy with the general registrar of the county or city where he resides. The declaration shall be in all respects the same as that

required to be given to the State Board by statewide and congressional district candidates. The general registrar shall, within three days after receiving the declaration, (i) deliver it in person or transmit it by certified mail, along with the petitions required by § 24.2-506 or copies thereof, to the general registrars of the other counties or cities, if any, in the legislative district for delivery to the secretaries of the electoral boards and (ii) deliver the declaration and such petitions to the secretary of his electoral board. He shall transmit the names of the candidates who have filed with him to the State Board immediately after the filing deadline.

C. Any person, other than a candidate for a party nomination or party nominee, who intends to be a candidate at any election for any other office shall file a declaration of candidacy with the general registrar of the county or city where he resides. The declaration shall be in all respects the same as that required to be given to the State Board by statewide and congressional district candidates. The general registrar shall, within three days after receiving the declaration, deliver it in person or transmit it by certified mail, along with the petitions required by § 24.2-506 or copies thereof, to the secretaries of the electoral boards of the counties or cities whose electors vote for the office. He shall transmit the names of the candidates who have filed with him to the State Board immediately after the filing deadline.

D. If requested in writing by a candidate filing pursuant to subsection B or C, the secretary of the electoral board shall notify him of any irregularity in the declaration or petitions which can be corrected prior to the filing deadline. (Code 1950, §§ 24-130, 24-131, 24-134.1, 24-135; 1958, c. 605; 1960, c. 427; 1962, c. 536; 1964, cc. 540, 541; 1970, c. 462, § 24.1-166; 1971, Ex. Sess., cc. 119, 247; 1972, c. 620; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1976, c. 616; 1978, c. 778; 1981, c. 425; 1983, c. 461; 1984, c. 480; 1991, c. 137; 1993, c. 641; 1996, c. 270.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-506. Petition of qualified voters required; number of signatures required; certain towns excepted. — The name of any candidate for any office, other than a party nominee, shall not be printed upon any official ballots provided for the election unless he shall file along with his declaration of candidacy a petition therefor, on a form prescribed by the State Board, signed by the number of qualified voters specified below after January 1 of the year in which the election is held and listing the residence address of each such voter. Each signature on the petition shall have been witnessed by a person who is himself a qualified voter, or qualified to register to vote, for the office for which he is circulating the petition and, in the case of a statewide office, is a resident of the same or a contiguous congressional district as the voter whose signature is witnessed, and whose affidavit to that effect appears on each page of the petition.

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

The minimum number of signatures of qualified voters required for candidate petitions shall be as follows:

1. For a candidate for the United States Senate, Governor, Lieutenant Governor, or Attorney General, 10,000 signatures, including the signatures of at least 400 qualified voters from each congressional district in the Commonwealth;
2. For a candidate for the United States House of Representatives, 1,000 signatures;

3. For a candidate for the Senate of Virginia, 250 signatures;

4. For a candidate for the House of Delegates or for a constitutional office, 125 signatures;

5. For a candidate for membership on the governing body or elected school board of any county or city, 125 signatures; or if from an election district not at large containing 1,000 or fewer registered voters, fifty signatures;

6. For a candidate for membership on the governing body or elected school board of any town which has more than 1,500 registered voters, 125 signatures; or if from a ward or other district not at large, twenty-five signatures;

7. For membership on the governing body or elected school board of any town which has 1,500 or fewer registered voters, no petition shall be required;

8. For a candidate for director of a soil and water conservation district created pursuant to Article 3 (§ 10.1-506 et seq.) of Chapter 5 of Title 10.1, twenty-five signatures; and

9. For any other candidate, fifty signatures. (Code 1950, § 24-133; 1970, c. 462, § 24.1-168; 1971, Ex. Sess., cc. 119, 247; 1978, c. 778; 1980, c. 639; 1982, c. 650; 1983, c. 188; 1987, c. 118; 1989, c. 141; 1992, c. 855; 1993, cc. 407, 641; 1998, cc. 152, 246; 2000, cc. 232, 252; 2001, c. 53.)

Editor's note. — Acts 1993, c. 407 amended former § 24.1-168, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above. In accordance with c. 407, the amendment inserted "or a contiguous" in the second sentence of the first paragraph.

The 2000 amendments. — The 2000 amendments by cc. 232 and 252 are identical, and inserted "or qualified to register to vote" in the second sentence of the first paragraph.

The 2001 amendments. — The 2001 amendment by c. 53 substituted "fifty" for "50" in subdivisions 5 and 9, substituted "twenty-five" for "25" in subdivision 6, added subdivision 8, redesignated former subdivision 8 as 9, and made minor stylistic changes.

Constitutionality. — The requirement that a congressional candidate submit 400 signatures per congressional district before appearing on the ballot is constitutional because it has a rational relationship to legitimate state interests in regulating ballot access. *Wood v. Quinn*, 104 F. Supp. 2d 611 (E.D. Va. 2000), *aff'd*, 230

F.3d 1356 (4th Cir. 2000).

Witness requirement. — The mere expectation of becoming a qualified voter is insufficient to meet the witness requirement specified in this section. *Edmonds v. Gilmore*, 988 F. Supp. 948 (E.D. Va. 1997).

Voters may sign multiple petitions and vote in party primaries. — Any registered voter may sign a petition and no statutory provision bars a voter from signing more than one nor does a voter who signs a petition relinquish his right to vote in a party primary. *Wood v. Meadows*, 207 F.3d 708 (4th Cir. 2000).

Candidate not required to witness all signatures on petition. — The language of this section does not require independent candidates to personally witness all signatures collected on their behalf, but rather only that the person witnessing the signatures must live in the same district or in a district contiguous to those voters signing the petition. *Wood v. Quinn*, 104 F. Supp. 2d 611 (E.D. Va. 2000), *aff'd*, 230 F.3d 1356 (4th Cir. 2000).

§ 24.2-507. Deadlines for filing declarations and petitions of candidacy. — For any office, declarations of candidacy and the petitions therefor shall be filed according to the following schedule:

1. For a general election in November, by 7:00 p.m. on the second Tuesday in June;

2. For a general election in May, by 7:00 p.m. on the first Tuesday in March;

3. For a special election held at the same time as a November general election, either (i) at least seventy-four days before the election or (ii) if the special election is being held at the second November election after the vacancy occurred, by 7:00 p.m. on the second Tuesday in June before that November election;

4. For a special election held at the same time as a May general election, by 7:00 p.m. on the first Tuesday in March; or

5. For a special election held at a time other than a general election, (i) at least thirty days before the election or (ii) within five days of any writ of

election or order calling a special election to be held less than thirty-five days after the issuance of the writ or order. (Code 1950, §§ 24-130, 24-131, 24-134.1, 24-135; 1958, c. 605; 1960, c. 427; 1962, c. 536; 1964, cc. 540, 541; 1970, c. 462, § 24.1-166; 1971, Ex. Sess., cc. 119, 247; 1972, c. 620; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1976, c. 616; 1978, c. 778; 1981, c. 425; 1983, c. 461; 1984, c. 480; 1991, c. 137; 1993, c. 641.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

Filing deadline constitutional. — The requirement imposed by this section that independent candidates for the United States Sen-

ate file their declarations of candidacy by the second Tuesday in June does not impose an unconstitutional burden on those candidates or their supporters. *Wood v. Meadows*, 207 F.3d 708 (4th Cir. 2000).

ARTICLE 3.

Nominations of Candidates by Political Parties.

§ 24.2-508. Powers of political parties in general. — Each political party shall have the power to (i) make its own rules and regulations, (ii) call conventions to proclaim a platform, ratify a nomination, or for any other purpose, (iii) provide for the nomination of its candidates, including the nomination of its candidates for office in case of any vacancy, (iv) provide for the nomination and election of its state, county, city, and district committees, and (v) perform all other functions inherent in political party organizations. (Code 1950, §§ 24-363, 24-364; 1970, c. 462, § 24.1-172; 1971, Ex. Sess., c. 119; 1973, c. 30; 1975, c. 515; 1978, c. 778; 1993, c. 641.)

Law Review. — For a symposium, “The Law and Economics of Elections,” see 85 Va. L. Rev. 1533 (1999). For a commentary, “The Theory of Political Competition,” see 85 Va. L. Rev. 1605 (1999). For a commentary, “Pluralism With a Corporate Face: A Comment On Issacharoff and Ortiz,” see 85 Va. L. Rev. 1671 (1999). For an article, “The Issue of Issue Advocacy: An Economic, Political, and Constitutional Analysis,” see 85 Va. L. Rev. 1761 (1999). For a commentary, “Taking Issue With Issue Advocacy,” see 85 Va. L. Rev. 1793 (1999). For a commentary, “On the Issue of Issue Advocacy,” see 85 Va. L. Rev. 1803 (1999).

Committee cannot rescind resolution

calling primary. — A Democratic committee passed a resolution pursuant to former § 24.1-172, declaring that a primary should be held at a certain time. Less than 60 days prior to the date fixed for the primary the committee rescinded its action calling the primary. It was held that the powers of the committee are prescribed and limited by law, and the committee had no legal authority for passing the rescinding resolution. At that date the rights of the Democratic voters to choose the candidates of the party had already attached, and the rights of the candidates had also then become fully vested. *Chichester v. Reamy*, 157 Va. 55, 160 S.E. 52 (1931) (decided under prior law).

§ 24.2-509. Party to determine method of nominating its candidates for office; exceptions. — A. The duly constituted authorities of the state political party shall have the right to determine the method by which a party nomination for a member of the United States Senate or for any statewide office shall be made. The duly constituted authorities of the political party for the district, county, city, or town in which any other office is to be filled shall have the right to determine the method by which a party nomination for that office shall be made.

B. Notwithstanding subsection A, the following provisions shall apply to the determination of the method of making party nominations. A party shall nominate its candidate for election for a General Assembly district where there is only one incumbent of that party for the district by the method designated by that incumbent, or absent any designation by him by the method of nomination determined by the party. A party shall nominate its candidates for election for a General Assembly district where there is more than one

incumbent of that party for the district by a primary unless all the incumbents consent to a different method of nomination. A party, whose candidate at the immediately preceding election for a particular office other than the General Assembly (i) was nominated by a primary or filed for a primary but was not opposed and (ii) was elected at the general election, shall nominate a candidate for the next election for that office by a primary unless all incumbents of that party for that office consent to a different method.

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

For the purposes of this subsection, any officeholder who offers for reelection to the same office shall be deemed an incumbent notwithstanding that the district which he represents differs in part from that for which he offers for election. (Code 1950, §§ 24-348, 24-361, 24-363, 24-364; 1970, c. 462, §§ 24.1-171, 24.1-172; 1971, Ex. Sess., c. 119; 1973, c. 30; 1975, c. 515; 1978, c. 778; 1993, c. 641.)

Law Review. — For note, "Morse v. Republican Party of Virginia: Political Costs or Benefits?" see 6 Geo. Mason L. Rev. 397 (1998).

§ 24.2-510. Deadlines for parties to nominate by methods other than primary. — For any office, nominations by political parties by methods other than a primary shall be made and completed in the manner prescribed by law according to the following schedule:

1. For a general election in November, by 7:00 p.m. on the second Tuesday in June;
2. For a general election in May, by 7:00 p.m. on the first Tuesday in March;
3. For a special election held at the same time as a November general election, either (i) at least seventy-four days before the election or (ii) if the special election is held at the second November election after the vacancy occurred, by 7:00 p.m. on the second Tuesday in June before that November election;
4. For a special election held at the same time as a May general election, by 7:00 p.m. on the first Tuesday in March; or
5. For a special election held at a time other than a general election, (i) at least thirty days before the election or (ii) within five days of any writ of election or order calling a special election to be held less than thirty-five days after the issuance of the writ or order.

In the case of all general elections a party shall nominate its candidate for any office by a nonprimary method only within the thirty-two days immediately preceding the primary date established for nominating candidates for the office in question. This limitation shall have no effect, however, on nominations for special elections or pursuant to § 24.2-539. (Code 1950, §§ 24-130, 24-131, 24-134.1, 24-135, 24-363, 24-364; 1958, c. 605; 1960, c. 427; 1962, c. 536; 1964, cc. 540, 541; 1970, c. 462, §§ 24.1-166, 24.1-172; 1971, Ex. Sess., cc. 119, 247; 1972, c. 620; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1976, c. 616; 1978, c. 778; 1981, c. 425; 1983, c. 461; 1984, c. 480; 1991, c. 137; 1993, c. 641.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-511. Party chairman to certify candidates to State Board and secretary of electoral board; failure to certify. — A. The state, district, or other appropriate party chairman shall certify the name of any candidate who

has been nominated by his party by a method other than a primary for any office to be elected by the qualified voters of (i) the Commonwealth at large, (ii) a congressional district or a General Assembly district, or (iii) political subdivisions jointly electing a shared constitutional officer to the State Board not later than five days after the last day for nominations to be made. The State Board shall notify the secretaries of every electoral board of the names of the candidates to appear on the ballot for such offices.

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

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

D. No further notice of candidacy or petition shall be required of a candidate once the party chairman has certified his name to the State Board. (Code 1950, §§ 24-134, 24-345.3; 1952, c. 509; 1954, c. 523; 1956, Ex. Sess., c. 1; 1958, c. 309; 1959, Ex. Sess., c. 17; 1960, c. 383; 1962, c. 536; 1964, c. 539; 1970, c. 462, § 24.1-169; 1972, c. 620; 1978, c. 778; 1982, c. 650; 1993, c. 641.)

ARTICLE 4.

Conduct of Primaries.

§ 24.2-512. Primaries to be conducted in accordance with article. — A primary when held shall be conducted in all respects under the provisions of this article. All references in this chapter to primaries shall be deemed to mean those elections held for the purpose of nominating candidates as authorized by this article. (Code 1950, § 24-347; 1970, c. 462, § 24.1-170; 1993, c. 641.)

§ 24.2-513. Provisions as to general elections applicable. — All the provisions and requirements of the laws of this Commonwealth in relation to the holding of elections shall apply to all primaries insofar as they are consistent with this article. (Code 1950, § 24-356; 1952, c. 4; 1964, c. 545; 1970, c. 462, § 24.1-178; 1993, c. 641.)

Former § 24.1-270 applies to primaries. — Former § 24.1-270, forbidding the giving away or selling of official ballots, applies to a primary election. *Xippas v. Commonwealth*, 141 Va. 497, 126 S.E. 207 (1925) (decided under prior law).

§ 24.2-514. To what nominations this article applies. — This article shall apply to the nomination of candidates for offices by a direct primary held on the regular dates established in § 24.2-515 for the conduct of primaries, and to no other nominations.

A primary is not authorized under this article to nominate presidential electors, nor to nominate candidates to fill vacancies unless the candidates for nomination to fill vacancies are to be voted for on the regular date set by this article for primaries. (Code 1950, §§ 24-348, 24-361; 1970, c. 462, § 24.1-171; 1993, c. 641.)

§ 24.2-515. Presidential Year Primaries. — Primaries for the nomination of candidates for offices to be voted on at the general election date in November shall be held on the second Tuesday in June next preceding such election, except that beginning with the year 2000 and in presidential election years thereafter, primaries to choose among presidential candidates may be held as provided below in Article 7 (§ 24.2-544 et seq.) of this chapter on the last Tuesday in February. Primaries for the nomination of candidates for offices to be voted on at the general election date in May shall be held on the first Tuesday in March next preceding such election, except that beginning with the year 2000 and in presidential election years thereafter, primaries for the nomination of candidates for offices to be voted on at the general election date in May shall be held as described below in Article 7 of this chapter on the last Tuesday in February. (Code 1950, § 24-349; 1952, c. 4; 1970, c. 462, § 24.1-174; 1971, Ex. Sess., c. 119; 1975, c. 515; 1993, c. 641; 1999, c. 972.)

The 1999 amendment inserted “except that beginning with the year 2000 and in presidential election years thereafter, primaries to choose among presidential candidates may be held as provided below in Article 7 (§ 24.2-544 et seq.) of this chapter on the last Tuesday in February” in the first sentence, and added “except that beginning with the year 2000 and in presidential election years thereafter, prima-

ries for the nomination of candidates for offices to be voted on at the general election date in May shall be held as described below in Article 7 of this chapter on the last Tuesday in February.”

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-515.1. Schedule for primaries in the year 2001 and each tenth year thereafter. — Primaries for the nomination of candidates for the offices listed in Section 4 of Article VII of the Constitution of Virginia to be voted on at the general election in November 2001 and each tenth year thereafter shall be held on the second Tuesday in June next preceding such election notwithstanding any special primary schedule enacted for any other office. (1993, c. 355, § 24.1-174.1; 1993, c. 641.)

Editor’s note. — Acts 1993, c. 355 enacted former § 24.1-174.1, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given to this section, as set out above.

Acts 2000, c. 886, cl. 1 and 2 provide: “1. § 1. The provisions of this act shall apply to the November 6, 2001, elections for members of the House Of Delegates of Virginia, for constitutional officers, for members of county governing bodies, and for members of county school board.

“§ 2. The State Board of Elections shall be authorized to reschedule the June 12, 2001, primary date for these offices to any Tuesday after June 12, 2001, and not later than September 11, 2001, if it appears that the necessary 2001 reapportionment or redistricting will not be completed, and preclearance from the appropriate United States authority under § 5 of the United States Voting Rights Act of 1965 will not be received in time for those primaries to be held on June 12, 2001.

“§ 3. The new primary date set by the State Board of Elections shall not be less than thirty

days after the Board votes, in open meeting, to set such new date. The State Board of Elections may vote, no later than May 12, 2001, to postpone the June 12, 2001, primary for these offices without deciding a new date. Any meeting called for the purpose of postponing the primary date or setting a new primary date may not be called with less than seven days’ notice to the public and the interested parties. The State Board of Elections shall, at the same time that it sets the new primary date, approve a revised schedule of filing dates for such primary and specify which previously filed documents shall continue to be acceptable despite their referencing the June 12, 2001, primary date.

“§ 4. If the primary is held later than August 1, 2001, ballots for the November 2001 election shall be printed on or before Friday, October 5, 2001, or as soon thereafter as practicable, notwithstanding § 24.2-612.

“2. That the provisions of this act shall expire on January 1, 2002.”

§ 24.2-516. Party to furnish names of chairmen and notify State Board of adoption of direct primary. — Each political party within the Commonwealth shall furnish to the State Board the names and addresses of its state, county, and city party chairmen in January of each year, and during the remainder of the year it shall notify the Board of any changes in such names and addresses.

At least 120 days prior to the regular date for a primary, the Board shall inquire of each state chairman and each county and city chairman whether a direct primary has been adopted. The Board shall advise each chairman that notification to the Board of the adoption of a direct primary is required and must be filed with the Board not more than 110 days and not less than 90 days before the date set for the primaries.

Each chairman shall file timely written notice with the Board whether or not a primary has been adopted and identify each office for which a primary has been adopted. The requirement to notify the Board of the adoption of a direct primary shall be satisfied when the Board receives by the deadline (i) written notice from the appropriate party chairman or (ii) a copy of the written notice from an incumbent officeholder to his party chairman of the incumbent's selection, pursuant to § 24.2-509, of the primary as the method of nomination. (Code 1950, § 24-351; 1962, c. 536; 1964, c. 545; 1970, c. 462, § 24.1-176; 1972, c. 620; 1981, c. 425; 1990, c. 199; 1993, c. 641.)

§ 24.2-517. State Board to order election. — The State Board shall order the holding of a primary election in any county, city, or other district of the Commonwealth in which it is notified pursuant to § 24.2-516 that a primary is intended to be held. The notice ordering the primary shall be sent to the secretary of the electoral board. Each secretary shall forthwith post a copy of the notice at the courthouse of the county or city, or publish the notice in a newspaper of general circulation in the county or city. (Code 1950, § 24-352; 1952, c. 212; 1970, c. 462, § 24.1-177; 1972, c. 620; 1993, c. 641.)

§ 24.2-518. County and city treasurers to pay primary expenses; certain uses of machinery by party. — The treasurer of the county or city in which the elections are held shall pay the costs of primary elections.

A political party may hold an election to select the members of its party committee at the same time and in the same places as a primary election without fee or charge for making use of the electoral machinery, provided that a primary to nominate the party's candidate for an office is in fact conducted on that primary date. Such elections for party committee members may be conducted by paper ballots or by voting machines in the discretion of the local electoral board.

The proper political party committee shall pay the costs of using the election machinery at any other time for the purpose of conducting other nominating procedures adopted pursuant to the rules of that party, if such use is authorized by the officials having custody of the machinery. (Code 1950, §§ 24-349, 24-364.1; 1952, c. 4; 1958, c. 580; 1970, c. 462, §§ 24.1-174, 24.1-180; 1971, Ex. Sess., c. 119; 1975, c. 515; 1982, c. 650; 1993, c. 641.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-519. Qualification of primary candidates. — In order to qualify as a candidate at any primary, a person must be legally qualified to hold the office for which he is a candidate and be qualified to vote in the primary in

which he seeks to be a candidate. (Code 1950, § 24-369; 1970, c. 462, § 24.1-183; 1971, Ex. Sess., c. 226; 1974, c. 428; 1977, c. 490; 1993, c. 641.)

§ 24.2-520. Declaration of candidacy required. — A candidate for nomination by primary for any office shall be required to file a written declaration of candidacy on a form prescribed by the State Board. The declaration shall include the name of the political party of which the candidate is a member, a designation of the office for which he is a candidate, and a statement that, if defeated in the primary, his name is not to be printed on the ballots for that office in the succeeding general election. The declaration shall be acknowledged before some officer who has the authority to take acknowledgments to deeds, or attested by two witnesses who are qualified voters of the election district. (Code 1950, §§ 24-370 through 24-372; 1960, c. 427; 1970, c. 462, § 24.1-184; 1978, cc. 239, 778; 1983, c. 461; 1993, c. 641.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-521. Petition required to accompany declaration; number of signatures required. — A candidate for nomination by primary for any office shall be required to file with his declaration of candidacy a petition for his name to be printed on the official primary ballot, on a form prescribed by the State Board, signed by the number of qualified voters specified below after January 1 of the year in which the election is held or before or after said date in the case of a March primary, and listing the residence address of each such voter. Each signature on the petition shall have been witnessed by a person who is himself a qualified voter, or qualified to register to vote, for the office for which he is circulating the petition and, in the case of a statewide office, is a resident of the same or a contiguous congressional district as the voter whose signature is witnessed, and whose affidavit to that effect appears on each page of the petition.

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

The minimum number of signatures of qualified voters required for primary candidate petitions shall be as follows:

1. For a candidate for the United States Senate, Governor, Lieutenant Governor, or Attorney General, 10,000 signatures, including the signatures of at least 400 qualified voters from each congressional district in the Commonwealth;
2. For a candidate for the United States House of Representatives, 1,000 signatures;
3. For a candidate for the Senate of Virginia, 250 signatures;
4. For a candidate for the House of Delegates or for a constitutional office, 125 signatures;
5. For a candidate for membership on the governing body of any county or city, 125 signatures; or if from an election district not at large containing 1,000 or fewer registered voters, 50 signatures;
6. For a candidate for membership on the governing body of any town which has more than 1,500 registered voters, 125 signatures; or if from a ward or other district not at large, 25 signatures;
7. For membership on the governing body of any town which has 1,500 or fewer registered voters, no petition shall be required; and

8. For any other candidate, 50 signatures. (Code 1950, § 24-373; 1952, c. 523; 1970, c. 462, § 24.1-185; 1971, Ex. Sess., cc. 119, 247; 1972, c. 620; 1978, c. 778; 1980, c. 639; 1982, c. 650; 1983, c. 188; 1989, c. 141; 1992, c. 855; 1993, cc. 407, 641; 1998, cc. 152, 246; 2000, cc. 232, 252.)

Editor's note. — Acts 1993, c. 407 amended former § 24.1-185, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above. In accordance with c. 407, the amendment inserted "or a contiguous" in the second sentence of the first paragraph.

The 2000 amendments. — The 2000

amendments by cc. 232 and 252 are identical, and substituted "or qualified to register" for "eligible" in the second sentence of the first paragraph.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-522. When and to whom filings to be made. — A. Declarations of candidacy, petitions, and receipts indicating the payment of filing fees shall be filed not earlier than noon of the seventy-seventh day and not later than 5:00 p.m. of the sixtieth day before the primary.

B. Except as provided in subsection C, candidates for nomination shall file their declarations, petitions, and receipts with the chairman or chairmen of the several committees of the respective parties.

C. Any candidate for nomination for United States Senator, Governor, Lieutenant Governor, or Attorney General shall file with the State Board (i) his declaration of candidacy, (ii) the petitions for his candidacy, sealed in an envelope to which is attached a written statement under oath by the candidate giving his name and the number of signatures on the petitions contained in the envelopes, and (iii) a receipt indicating the payment of his filing fee.

The State Board shall transmit the material so filed to the state chairman of the party of the candidate on the fifty-ninth day before the primary. The sealed envelope containing the petitions for a candidate may be opened only by the state chairman of the party of the candidate. (Code 1950, §§ 24-370 through 24-372, 24-374; 1960, c. 427; 1970, c. 462, §§ 24.1-184, 24.1-186; 1978, cc. 239, 778, § 24.1-186.1; 1983, c. 461; 1993, c. 641.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-523. Candidates to pay fee before filing. — Every candidate for nomination for any office at any primary shall, before he files his declaration of candidacy, pay a fee equal to two percent of one year's minimum salary attached to the office for which he is candidate in effect in the year in which he files.

In case of an office for which compensation is paid in whole or in part by fees, the amount to be paid by a candidate as his contribution for the payment of the expenses of the primary shall be fixed by the proper committee of the respective parties.

If there is no salary or fee attached to the office, the fee for primary expenses shall be five dollars. This provision includes candidates for party committees in § 24.2-518. (Code 1950, §§ 24-398 through 24-400; 1970, c. 462, § 24.1-198; 1976, c. 616; 1993, c. 641.)

§ 24.2-524. To whom fees paid; refund of fees. — A. Candidates for United States Senators, for representatives in Congress, and for the offices of Governor, Lieutenant Governor, and Attorney General shall pay the primary fee to the Treasurer of the Commonwealth. The primary fees shall be credited by the Treasurer to a fund to be known as the "state primary fee fund."

The Treasurer shall refund the fee by warrant upon the state primary fee fund in the event the prospective candidate does not become a candidate, becomes a candidate and is not opposed, or must refile for any reason.

B. All other candidates shall pay the fee to the treasurer, or director of finance if there is no treasurer, of the city or county in which they reside. The treasurer or director of finance shall pay back the fee in the event the prospective candidate does not become a candidate, or becomes a candidate and must refile for any reason. In the event the candidate is unopposed, the State Board or the local electoral board, as appropriate, shall notify, no less than forty-five days before the primary, the treasurer or director of finance to whom the fee was paid that the candidate is unopposed and shall provide the name and mailing address for returning the fee to the candidate. The treasurer or director of finance promptly shall return the fee to the candidate. All other primary fees paid a county or city treasurer or director of finance shall be paid or placed to the credit of the fund of the county or city out of which the expenses of the primary were paid by the county or city.

C. A receipt for the payment of the fee must be attached to the declaration of candidacy; otherwise the declaration shall not be received or filed. (Code 1950, § 24-401; 1962, c. 462; 1971, Ex. Sess., c. 247, § 24.1-199; 1982, c. 650; 1988, c. 192; 1993, c. 641.)

§ 24.2-525. Persons entitled to have name printed on ballot. — Only a person meeting all the qualifications and fulfilling all the requirements of a candidate, and who has complied with the rules and regulations of his party, shall have his name printed on the ballot provided for the primary election. No person shall have his name printed on the ballot for more than two offices at any one primary election. (Code 1950, §§ 24-369 through 24-372; 1960, c. 427; 1970, c. 462, §§ 24.1-183, 24.1-184; 1971, Ex. Sess., c. 226; 1974, c. 428; 1977, c. 490; 1978, cc. 239, 778; 1983, c. 461; 1993, c. 641; 2000, cc. 513, 552.)

Editor's note. — Acts 2000, cc. 513 and 552, cl. 2, provide: "That the provisions of this act shall be applicable to any election held on or after January 1, 2001."

The 2000 amendments. — The 2000 amendments by cc. 513 and 552, and applicable

to any election held on or after January 1, 2001, are identical and added the second sentence.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-526. Primary not to be held when less than two candidates declare. — Whenever within the time prescribed by this article there is only one declaration of candidacy in a political party for the nomination for any office, the person filing the declaration shall be declared the nominee of the party for the office for which he has announced his candidacy and his name shall not be printed on the ballot for the primary. Whenever within the time prescribed by this article there is no declaration of candidacy in a political party for the nomination for any office, the appropriate committee of the party may provide for an alternative method of nominating a candidate. (Code 1950, § 24-350; 1970, c. 462, § 24.1-175; 1983, c. 483; 1993, c. 641.)

§ 24.2-527. Chairman to furnish State Board and local electoral boards with names of candidates. — It shall be the duty of the chairman or chairmen of the several committees of the respective parties to furnish the name of any candidate for nomination for any office to be elected by the qualified voters of the Commonwealth at large or of a congressional district or of a General Assembly district to the State Board, and to furnish the name of any candidate for any other office to the State Board and to the electoral boards charged with the duty of preparing and printing the primary ballots. The

chairman shall also certify the order and date and time of filing for purposes of printing the ballots as prescribed in § 24.2-528, provided that the State Board shall determine the order and date and time of filing for candidates for United States Senator, Governor, Lieutenant Governor, and Attorney General for such purposes. Each chairman shall comply with the provisions of this section not less than fifty-five days before the primary. (Code 1950, § 24-375; 1970, c. 462, § 24.1-187; 1976, c. 616; 1978, c. 239; 1979, c. 329; 1993, c. 641.)

§ 24.2-528. No primary candidate to be nominated by convention. — No party which has adopted the method of making a nomination for an office by primary pursuant to § 24.2-509 shall nominate by a convention any candidate to be voted for at that primary. (Code 1950, § 24-366; 1970, c. 462, § 24.1-173; 1993, c. 641.)

§ 24.2-529. Primary ballots. — The primary ballots for the several parties taking part in a primary shall be composed, arranged, printed, delivered, and provided in the same manner as the general election ballots except that at the top of each official primary ballot shall be printed in plain black type the name of the political party and the words "Primary Election." The names of the candidates for various offices shall appear on the ballot in an order determined by the priority of the time of filing for the office. In the event two or more candidates file simultaneously, the order of filing shall then be determined by lot by the electoral board or the State Board as in the case of a tie vote for the office. No write-in shall be permitted on ballots in primary elections. (Code 1950, § 24-376; 1970, c. 462, § 24.1-188; 1971, Ex. Sess., c. 119; 1993, c. 641.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-530. Who may vote in primary. — All persons qualified to vote, pursuant to §§ 24.2-400 through 24.2-403, may vote at the primary. No person shall vote for the candidates of more than one party. (Code 1950, § 24-367; 1970, c. 462, § 24.1-182; 1971, Ex. Sess., c. 205; 1976, c. 616; 1993, c. 641.)

Cross references. — For constitutional provision as to qualifications of voters, see Va. Const., Art. II, § 1.

Party could not restrict primary to white persons. — A resolution, adopted by a party under former § 24.1-182, declaring that only white persons should participate in primaries, was invalid under Amendments 14 and 15 to the federal Constitution. *West v. Bliley*, 33 F.2d 177 (E.D. Va. 1929), *aff'd*, 42 F.2d 101 (4th Cir. 1930) (decided under prior law).

Voter signing petition may vote in party primary. — A voter who signs a petition supporting the efforts of an independent candidate to be placed on the ballot does not relinquish his right to vote in a party primary. *Wood v. Meadows*, 207 F.3d 708 (4th Cir. 2000).

Challenge to open primary law. — Since plaintiffs who brought suit against the defendants personally and as members of the Virginia Board of Elections, alleging that their

actions in enforcing Virginia's Open Primary Law violated their First Amendment rights, were unable to demonstrate that their alleged injury could be redressed by the declaration that the Open Primary Law was unconstitutional, and the Virginia Republican Party voluntarily elected an "open" primary, which it was legally entitled to do, there was nothing the federal circuit court could do to prevent the party from "forcing" its members to vote with non-Republicans. Therefore, plaintiffs lacked standing to bring this suit. *Marshall v. Meadows*, 921 F. Supp. 1490 (E.D. Va. 1996), *aff'd*, 105 F.3d 904 (4th Cir. 1997).

Members of a political party did not have standing to file suit 90 days before a primary to be conducted pursuant to this section, when the political party itself had adopted an open primary and refused to join the suit. *Marshall v. Meadows*, 921 F. Supp. 1490 (E.D. Va. 1996), *aff'd*, 105 F.3d 904 (4th Cir. 1997).

§ 24.2-531. Pollbooks and ballot boxes. — There shall be pollbooks in the form set forth in § 24.2-611 and a separate ballot box provided for each party taking part in any primary. The ballot box for each party shall have plainly marked upon its top the words "Primary Ballot Box" and the name of the party. The officers of election shall enter on the cover of the pollbook, if not entered previously, the name of the party whose voters are recorded therein. (Code 1950, § 24-377; 1970, c. 462, § 24.1-189; 1980, c. 639; 1981, c. 425; 1993, c. 641.)

Law Review. — For an article, "The Law and Economics of 'Informed Voter' Ballot Notations," see 85 Va. L. Rev. 1533 (1999). For a commentary, "Garrett's Temptation," see 85 Va.

L. Rev. 1589 (1999). For a commentary, "The Theory of Political Competition," see 85 Va. L. Rev. 1605 (1999).

§ 24.2-532. Abstracts of votes; law-enforcement officer to obtain returns not forwarded. — As soon as the electoral board shall determine the persons who have received the highest number of votes for nomination to any such office, the secretary of the board shall immediately make out abstracts and certificates of the votes cast as provided in § 24.2-675 and forward certified copies thereof to the State Board. The secretary in addition shall place certified copies thereof in an envelope and forward them in person or by certified mail (i) for members of the House of Representatives of the United States, to the chairman of the congressional district committee, (ii) for members of the General Assembly, to the chairman of the Senate or House of Delegates district committee, and (iii) for county and city and district officers, to the chairman of the county or city. "Chairman" means the chairman of the political party under whose auspices the primary is held.

If the abstract of votes shall not have been received by the State Board from any county or city within six days after any state primary election, the Board shall dispatch a law-enforcement officer to obtain them as provided in § 24.2-678. (Code 1950, §§ 24-388, 24-390; 1952, c. 4; 1970, c. 462, §§ 24.1-191, 24.1-193; 1976, c. 616; 1993, c. 641.)

§ 24.2-533. Party chairman entitled to copy pollbook at own expense. — The chairman of the party shall be entitled, at his own expense, to copy the pollbook retained by the clerk of court after it has been returned by the secretary of the electoral board in accordance with § 24.2-671. (Code 1950, § 24-379; 1970, c. 462, § 24.1-190; 1972, c. 620; 1981, c. 425; 1993, c. 641.)

§ 24.2-534. Returns tabulated by State Board; when nominee declared. — As soon as possible after receipt of the certified abstract and not later than fourteen days after the day of the election, the State Board shall open and tabulate the returns. Upon completion of the tabulation the Board shall declare the nominee in the manner and form as it does in general elections. (Code 1950, § 24-389; 1952, c. 4; 1970, c. 462, § 24.1-192; 1978, c. 778; 1993, c. 641.)

§ 24.2-535. Vote required to nominate. — Any candidate for party nomination to any office who receives a plurality of the votes cast by his party shall be the nominee of his party for that office and his name shall be printed on the official ballots used in the election for which the primary was held. (Code 1950, § 24-359; 1952, c. 4; 1964, c. 616; 1970, c. 462, § 24.1-179; 1993, c. 641.)

§ 24.2-536. Procedure when a vacancy in office occurs less than sixty days before primary date. — Whenever, by reason of the death, resignation, or removal of the incumbent, a vacancy in any office occurs less

than sixty but more than thirty days before the regular date for the holding of a primary, the properly constituted party authorities may permit the filing of declarations and petitions of candidacy for nomination for that office in the primary. Notice of the vacancy and the right to file declarations and petitions of candidacy for nomination to fill it shall be advertised by the party committee or committees in at least one newspaper of general circulation within the Commonwealth if it is an office filled by election by the people at large, and in the manner prescribed by the properly constituted party authorities in the case of all other offices. No declaration and petitions of candidacy shall be filed with the committee or committees until such advertisement is made, nor within twenty days prior to the date for holding the primary. Declarations and petitions of candidacy filed pursuant to this section shall comply in every respect, except for the time of filing, with the requirements established generally for such declarations and petitions in this article.

If more than one person qualifies, the party chairman shall promptly certify their names to the State Board and the appropriate electoral boards as having qualified under the provisions of this section. The electoral boards having charge of the printing of the official ballots for the primary shall either:

1. Cause to be printed on the ballot the name of each person so certified; or
2. If the official ballots have already been printed, cause separate ballots to be printed for the office for which the persons have qualified pursuant to this section.

In the event that only one person qualifies as a candidate under the provisions of this section, the person so qualifying shall be declared the nominee of his party for that office and his name shall not be printed on the primary ballot.

In the event that no person qualifies as a candidate under the provisions of this section, or that the vacancy occurs less than thirty days before the primary, the appropriate committee of the political party shall determine the time and method of nominating its candidate for the office. (Code 1950, § 24-362; 1970, c. 462, § 24.1-194; 1993, c. 641.)

§ 24.2-537. Procedure when nominee by default dies or withdraws or nomination is set aside prior to primary. — A. If any person who would have been nominated as the candidate of a political party for any office in any general election by reason of the fact that he was the only person who filed the required declaration of and petition for candidacy dies or withdraws as the party candidate, or his nomination is set aside for any reason, thirty days or more before the day on which the primary would have been held if two or more candidates had qualified, the appropriate committee of the political party shall determine the time and method of nominating its candidate for the office.

B. If the party committee determines that the party's nominee shall be elected at the scheduled primary, any person desiring to become a candidate for nomination by the party at that primary who is otherwise qualified may file a declaration of and petition for his candidacy with the proper chairman of his party committee. No person whose nomination has been set aside for fraud knowingly participated in by the candidate, or other person who knowingly participated in such fraud, shall be deemed qualified. The declaration and petition shall comply in every respect with the requirements established generally for such declarations and petitions in this article, except that the declaration and petition shall be filed at least twenty days before the day on which the primary is to be held.

If more than one person qualifies, the party chairman shall promptly certify their names to the State Board and the appropriate electoral boards as having qualified under the provisions of this section. The electoral boards having charge of the printing of the official ballots for the primary election shall either:

1. Cause to be printed thereon the name of every person so certified; or
2. If the official ballots have already been printed, cause separate ballots to be printed for the office for which two or more persons have qualified pursuant to the provisions of this section.

In the event that only one person qualifies as a candidate in accordance with the provisions of this section, the person so qualifying shall be declared the nominee of his party for that office and his name shall not be printed on the primary ballot.

In the event that no person qualifies as a candidate pursuant to the provisions of this section, or that the death or withdrawal or setting aside of candidacy of any such party nominee should occur at a time which is less than thirty days prior to any such primary, the appropriate committee of the political party shall determine the time and method of nominating its candidate for the office.

C. No party shall nominate any person whose nomination has been set aside for fraud knowingly participated in by the candidate, or any other person who knowingly participated in such fraud. (Code 1950, § 24-391; 1970, c. 462, § 24.1-195; 1983, c. 483; 1993, c. 641.)

§ 24.2-538. Procedure when opposed candidate for nomination dies prior to primary. — If any person who is a candidate for nomination by a political party at a primary election, and who, along with one or more other candidates, has qualified to have his name printed on the official ballot for the primary, dies thirty days or more before the day on which the primary is to be held, any person otherwise qualified who desires to be a candidate at that primary may file a declaration of and petition for his candidacy with the proper chairman of his party committee. The declaration and petition shall comply in every respect with the requirements established generally for such declarations and petitions by this article, except that the declaration and petition shall be filed at least twenty days before the day on which the primary is to be held.

The party chairman or chairmen shall promptly certify the names of every such person to the State Board and appropriate electoral boards as having qualified under the provisions of this section. Every electoral board having charge of the printing of official ballots for the primary election shall either:

1. Cause to be printed thereon the name of every person so certified; or
2. If the official ballots have already been printed, cause separate ballots to be printed for the office containing the names of those candidates other than the decedent who have theretofore qualified and the names of those certified to it as having qualified pursuant to the provisions of this section. The board may, in its discretion, cause to be stricken from the ballots already printed the title of the office involved and the names of all candidates for nomination for the office appearing thereon.

Whenever any additional candidate shall qualify pursuant to this section, no ballots theretofore cast by absentee vote for a candidate for such office shall be counted, but any person who has so voted shall be entitled to receive a new ballot and to vote for his choice among all the candidates for such office. (Code 1950, § 24-392; 1970, c. 462, § 24.1-196; 1976, c. 616; 1993, c. 641.)

ARTICLE 5.

Death, Withdrawal, or Disqualification of Party Nominee.

§ 24.2-539. Party may nominate when nominee dies, withdraws, or nomination is set aside; duty of party chairman. — Should the nominee of any party die, withdraw, or have his nomination set aside for any reason, the party may nominate to fill the vacancy in accordance with its own rules. A

candidate who has been disqualified for failing to meet the filing requirements of Article 1 (§ 24.2-500 et seq.) of this chapter shall not be renominated. No party shall renominate any person whose nomination has been set aside for fraud knowingly participated in by the candidate. The party chairman or chairmen shall promptly certify the name of any such nominee to the appropriate electoral boards and the nominee shall promptly comply with the filing requirements of Article 1 of this chapter. (Code 1950, §§ 24-234, 24-235, 24-365; 1952, c. 4; 1970, c. 462, §§ 24.1-110, 24.1-197; 1976, c. 616; 1980, c. 639; 1984, c. 480; 1990, c. 476; 1992, c. 828; 1993, c. 641.)

§ 24.2-540. Other parties may also nominate; independent candidates. — Any other political party may also nominate and file the required notice of a new candidate pursuant to § 24.2-539 if the candidate who died, withdrew, or had his nomination set aside was unopposed by that party. A nonparty candidate shall also be permitted to file a notice of candidacy whether or not the candidate who died, withdrew, or had his nomination set aside was opposed by a nonparty or party candidate.

Any such party or nonparty candidate shall file any statement or petition required of him by Article 1 (§ 24.2-500 et seq.) or Article 2 (§ 24.2-505 et seq.) of this chapter. (Code 1950, §§ 24-234, 24-235; 1970, c. 462, § 24.1-110; 1976, c. 616; 1980, c. 639; 1984, c. 480; 1990, c. 476; 1992, c. 828; 1993, c. 641.)

Former § 24.1-110 unfairly and unnecessarily burdened independent candidates in contravention of the First and Fourteenth Amendments of the United States Constitu-

tion. *El-Amin v. State Bd. of Elections*, 721 F. Supp. 770 (E.D. Va. 1989) (decided under prior law).

§ 24.2-541. Printing of names on ballot. — In the case (i) of a candidate who has died if the notice is filed with the proper official at least twenty-five days before the day on which the election is to be held or (ii) of a candidate who has withdrawn or had his nomination set aside if the notice is filed with the proper official at least forty-five days before the day on which the election is to be held, the electoral board or boards having charge of the printing of the ballots for such election shall either:

1. Cause to be printed thereon the name of every person qualifying as provided in this article; or
2. If ballots for the election have already been printed, cause separate ballots to be printed for the office on which shall be printed the name of every person qualifying as provided in this article and of any other party or nonparty candidate for the same office who had already qualified to have his name printed on the ballot. In addition, the electoral board may cause to be stricken from the earlier printed ballots the title of the office involved and the names of all candidates for that office appearing thereon.

If the candidate so dying, withdrawing or having his nomination set aside is a candidate for an office to which more than one person is to be elected and none of the candidates was opposed prior to such death, withdrawal, or setting aside, then the ballots shall be so printed as to permit the electors to vote separately for the remaining unopposed candidate or candidates, and for such persons who filed notice of candidacy as provided in this article.

Whenever any additional candidate qualifies as provided in this article, no votes previously cast by absentee ballot for a candidate for such office shall be counted, but any person who has so voted shall be entitled to receive a new ballot and to vote for his choice among all the candidates for such office. (Code 1950, §§ 24-234, 24-235; 1970, c. 462, § 24.1-110; 1976, c. 616; 1980, c. 639; 1984, c. 480; 1990, c. 476; 1992, c. 828; 1993, c. 641.)

ARTICLE 6.

Nominations for Presidential Elections.

§ 24.2-542. State Board to be furnished names of electors selected by political parties; oaths of electors. — In elections for President and Vice President of the United States, the appropriate chairman or secretary of each political party shall furnish to the State Board by noon of the seventy-fourth day before the presidential election (i) the names of the electors selected by the party at its convention held for that purpose, together with the names of the political party and of the candidates for President and Vice President for whom the electors are required to vote in the Electoral College and (ii) a copy of a subscribed and notarized oath by each elector stating that he will, if elected, cast his ballot for the candidates for President and Vice President nominated by the party that selected the elector, or as the party may direct in the event of death, withdrawal or disqualification of the party nominee. In the event of the death or withdrawal of a candidate of a political party for President or Vice President, that party may substitute the name of a different candidate before the State Board certifies to the county and city electoral boards the form of the official ballots. The State Board shall also be furnished, if it requests, with satisfactory evidence that any person undertaking to act as an elector on behalf of any political party is, in fact, duly and properly authorized to do so. (Code 1950, § 24-290.1; 1950, p. 246; 1970, c. 462, § 24.1-158; 1982, c. 650; 1984, c. 480; 1993, c. 641; 1996, c. 574; 2001, c. 630.)

The 2001 amendments. — The 2001 amendment by c. 630 inserted the clause (i) designator, substituted "required to vote" for "expected to vote," and inserted "and (ii) a copy of a subscribed and notarized oath by each elector stating that he will, if elected, cast his ballot for the candidates for President and Vice

President nominated by the party that selected the elector, or as the party may direct in the event of death, withdrawal or disqualification of the party nominee."

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-543. How other groups may submit names of electors; oaths of electors. — A group of qualified voters, not constituting a political party as defined in § 24.2-101, may have the names of electors selected by them, including one elector residing in each congressional district and two from the Commonwealth at large, printed upon the official ballot to be used in the election of electors for President and Vice President by filing a petition pursuant to this section. The petition shall be filed with the State Board by noon of the seventy-fourth day before the presidential election. The petition shall be signed by at least 10,000 qualified voters and include signatures of at least 400 qualified voters from each congressional district. The petition shall be signed by petitioners on and after January 1 of the year of the presidential election only and contain the residence address of each petitioner. The signature of each petitioner shall be witnessed by a person who is a qualified voter, or qualified to register to vote, and who is a resident of the same or a contiguous congressional district as the voter whose signature is witnessed, and whose affidavit to that effect appears on each page of the petition. The petition shall state the names of the electors selected by the petitioners, the party name under which they desire the named electors to be listed on the ballot, and the names of the candidates for President and Vice President for whom the electors are required to vote in the Electoral College. The persons filing the petition shall file with it a copy of a subscribed and notarized oath by each elector stating that he will, if elected, cast his ballot for the candidates for President and Vice President named in the petition, or as the party may direct in the event of death, withdrawal or disqualification of the party nominee. In

order to utilize a selected party name on the ballot, the petitioners shall have had a state central committee composed of registered voters from each congressional district of the Commonwealth, a party plan and bylaws, and a duly designated chairman and secretary in existence and holding office for at least six months prior to filing the petition. The State Board may require proof that the petitioners meet these requirements before permitting use of a party name on the ballot. The party name shall not be identical with or substantially similar to the name of any political party qualifying under § 24.2-101 and then in existence.

In the event of the death or withdrawal of a candidate for President or Vice President qualified to appear on the ballot by party name, that party may substitute the name of a different candidate before the State Board certifies to the county and city electoral boards the form of the official ballots.

In the event that a group of qualified voters meets the requirements set forth in this section except that they cannot utilize a party name, the electors selected and the candidates for President and Vice President shall be identified and designated as "Independent" on the ballot. Substitution of a different candidate for Vice President may be made by the candidate for President before the State Board certifies to the county and city electoral boards the form of the official ballot. (Code 1950, § 24-290.3; 1952, c. 330; 1964, c. 542; 1968, c. 284; 1970, c. 462, § 24.1-159; 1982, c. 650; 1984, c. 480; 1993, c. 641; 1994, c. 149; 1998, cc. 152, 246; 2000, cc. 232, 252; 2001, c. 630.)

The 2000 amendments. — The 2000 amendments by cc. 232 and 252 are identical, and in the fifth sentence of the first paragraph, inserted "person who is a" preceding "qualified voter," and inserted "or qualified to register to vote, and" thereafter.

The 2001 amendments. — The 2001 amendment by c. 630, in the first paragraph, substituted "required to vote" for "expected to vote" in the sixth sentence, and added the seventh sentence.

Editor's note. — The cases cited below were decided under former law corresponding to this section.

Requirement that signatures must be obtained from each of the congressional districts in Virginia is constitutional. *Libertarian Party v. Davis*, 591 F. Supp. 1561 (E.D. Va. 1984), *aff'd*, 766 F.2d 865 (4th Cir. 1985), *cert. denied*, 475 U.S. 1013, 106 S. Ct. 1190, 89 L. Ed. 2d 305 (1986).

Requirement that signatures be witnessed by voter of same congressional dis-

trict is constitutional. — The requirement under former § 24.1-159 that "the signatures ... shall be witnessed by a qualified voter of the same congressional district (as the person signing the petition)" is constitutional. This requirement obviously gives some assurance that names appearing on the petition are genuine, not spurious. The witness takes oath to that fact and experience has shown that many people take their oaths seriously. Thus the requirement is a practical means of reinforcing compliance with the statute. *Libertarian Party v. Davis*, 591 F. Supp. 1561 (E.D. Va. 1984), *aff'd*, 766 F.2d 865 (4th Cir. 1985), *cert. denied*, 475 U.S. 1013, 106 S. Ct. 1190, 89 L. Ed. 2d 305 (1986).

Requirement that petition signatures be witnessed and obtained distributively does not violate the First and Fourteenth Amendments. *Libertarian Party v. Davis*, 766 F.2d 865 (4th Cir. 1985), *cert. denied*, 475 U.S. 1013, 106 S. Ct. 1190, 89 L. Ed. 2d 305 (1986).

ARTICLE 7.

Presidential Year Primaries.

§ 24.2-544. Time presidential primaries to be held and completion of duties by officers of election; age qualifications for participation. — A. Primaries for the nomination of candidates for the office of President of the United States to be voted on at the November 2000 general election, and the November general election in each presidential election year thereafter, shall be held on the last Tuesday in February preceding the November general election. Primaries for the nomination of candidates for all offices to be voted on at the May 2000 general election, and the May general election in each

presidential election year thereafter, shall be held on the last Tuesday in February preceding the May general election.

B. The provisions of this title shall apply to the conduct of presidential year primaries including the time limits applicable to notices and candidate filing deadlines and the closing of registration records before the primary. The State Board shall provide a schedule for the notices and filing deadlines by the August 1 prior to the February primary including a campaign finance disclosure report filing schedule adjusted to reflect the difference between the June date for other primaries and the February date for the presidential primary, and the March and February primary dates.

C. Notwithstanding any other provision of law to the contrary, any officer of election who serves at any election held on the last Tuesday in February shall be required to complete his official duties relating to that election whether or not he has been reappointed to serve for the ensuing year.

D. Notwithstanding any other provision of law to the contrary, any person who is otherwise qualified and will be eighteen years of age at the next November general election shall be permitted to register in advance of and also vote in any presidential primary and any other primary or special election held on the same day. (1999, c. 972; 2000, cc. 1, 856.)

The 2000 amendments. — The 2000 amendment by c. 1, effective February 1, 2000, added “and completion of duties by officers of election” to the section catchline, and added subsection C.

The 2000 amendment by c. 856 added “age qualifications for participation” in the section catchline and added subsection D.

§ 24.2-545. Presidential primary. — A. The duly constituted authorities of the state political party shall have the right to determine the method by which the state party will select its delegates to the national convention to choose the party’s nominees for President and Vice President of the United States including a presidential primary or another method determined by the party. The state chairman shall notify the State Board of the party’s determination at least ninety days before the primary date. If the party has determined that it will hold a presidential primary, each registered voter of the Commonwealth shall be given an opportunity to participate in the presidential primary of the political party, as defined in § 24.2-101, subject to requirements determined by the political party for participation in its presidential primary. The requirements may include, but shall not be limited to, the signing of a pledge by the voter of his intention to support the party’s candidate when offering to vote in the primary. The requirements applicable to a party’s primary shall be determined at least ninety days prior to the primary date and certified to, and approved by, the State Board.

B. Any person seeking the nomination of the national political party for the office of President of the United States, or any group organized in this Commonwealth on behalf of, and with the consent of such person, may file with the State Board petitions signed by at least 10,000 qualified voters, including at least 400 qualified voters from each congressional district in the Commonwealth, who attest that they intend to participate in the primary of the same political party as the candidate for whom the petitions are filed. Such petitions shall be filed with the State Board by the primary filing deadline. The petitions shall be on a form prescribed by the State Board. Such person or group shall file with the petitions a list of the names of persons who would be elected delegates and alternate delegates to the political party’s national convention if the person wins the primary and the party has determined that its delegates will be selected pursuant to the primary. The slate of delegates and alternates shall comply with the rules of the national and state party.

C. The names of all candidates in the presidential primary of each political party shall appear on the ballot in an order determined by lot by the State Board.

D. The State Board shall certify the results of the presidential primary to the state chairman. If the party has determined that its delegates and alternates will be selected pursuant to the primary, the slate of delegates and alternates of the candidate receiving the most votes in the primary shall be deemed elected by the state party. If the party has determined to use another method for selecting delegates and alternates, those delegates and alternates shall be bound to vote on the first ballot at the national convention for the candidate receiving the most votes in the primary unless that candidate releases those delegates and alternates from such vote.

E. The election, or binding of votes, of delegates to a political party's national convention for the nomination of that party's candidates for President and Vice President of the United States through the presidential primary process shall be considered to be equivalent to a primary for the nomination of a party's candidate.

F. The cost of the presidential primary shall be paid by the Commonwealth pursuant to the provisions of the appropriation act. (1999, c. 972; 2000, c. 379.)

The 2000 amendments. — The 2000 amendment by c. 379, effective April 4, 2000, deleted "and the cost of the presidential pri-

mary shall be paid by the counties and cities of the Commonwealth" from the end of subsection E and added subsection F.

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ARTICLE 1.

General Provisions; Polling Places.

§ 24.2-600. **Cost of elections.** — The cost of conducting elections under this title shall be paid by the counties and cities, respectively. The cost of town elections shall be paid by the towns. (Code 1950, §§ 24-172, 24-177; 1970, c. 462, §§ 24.1-93, 24.1-96; 1993, c. 641.)

§ 24.2-601. **Town election process.** — The electoral board and general registrar of the county within which a town, or the greater part thereof, is situated shall control the election process and carry out the applicable provisions of this title concerning towns. (Code 1950, §§ 24-170, 24-172, 24-175; 1970, c. 462, §§ 24.1-91, 24.1-93; 1971, Ex. Sess., c. 119; 1991, c. 137; 1993, c. 641.)

§ 24.2-602. **Exemption for ballots and election materials from certain purchasing and procurement requirements.** — The provisions of Article 3, Division of Purchases and Supply, (§ 2.2-1109 et seq.) of Chapter 11 of Title 2.2 and of Articles 1 (§ 2.2-4300 et seq.), 2 (§ 2.2-4303 et seq.), 3 (§ 2.2-4343 et seq.), and 5 (§ 2.2-4357 et seq.) of Chapter 43, Virginia Public Procurement Act, of Title 2.2 shall not apply to contracts for equipment, services, the printing of ballots or statements of results, or other materials essential to the conduct of the election. The provisions of Articles 4 (§ 2.2-4347 et seq.) and 6 (§ 2.2-4367 et seq.) of Chapter 43, Virginia Public Procurement Act, of Title 2.2 shall apply to such contracts. (1980, c. 639, § 24.1-113.1; 1981, c. 425; 1982, c. 647; 1992, c. 105; 1993, c. 641.)

§ 24.2-603. **Hours polls to be open; closing the polls.** — At all elections, the polls shall be open at each polling place at 6:00 a.m. on the day of the election and closed at 7:00 p.m. on the same day.

At 6:45 p.m. an officer of election shall announce that the polls will close in fifteen minutes. The officers of election shall list the names of all qualified voters in line before the polling place at 7:00 p.m. and permit those voters and no others to vote after 7:00 p.m. (Code 1950, §§ 24-182, 24-184; 1950, p. 462; 1958, c. 160; 1962, c. 536; 1966, c. 116; 1970, c. 462, §§ 24.1-98, 24.1-99; 1981, c. 425; 1993, c. 641.)

§ 24.2-604. Prohibited activities at polls; notice of prohibited area; presence of representatives of parties or candidates; simulated elections; penalties. — A. During the times the polls are open and ballots are being counted, it shall be unlawful for any person (i) to loiter or congregate within forty feet of any entrance of any polling place; (ii) within such distance to give, tender, or exhibit any ballot, ticket, or other campaign material to any person or to solicit or in any manner attempt to influence any person in casting his vote; or (iii) to hinder or delay a qualified voter in entering or leaving a polling place.

B. Prior to opening the polls, the officers of election shall post, in the area within forty feet of any entrance to the polling place, sufficient notices which state "Prohibited Area" in two-inch type. The notices shall also state the provisions of this section in not less than twenty-four-point type. The officers of election shall post the notices within the prohibited area to be visible to voters and the public.

C. The officers of election shall permit one authorized representative of each political party or independent candidate in a general election, or one authorized representative of each candidate in a primary or special election, to remain in the room in which the election is being conducted. If the precinct registered voter list is divided into sections, the officers shall permit one such representative for each section, but no more than three representatives of any political party or independent candidate shall be permitted in the room at any one time. Each authorized representative shall be a qualified voter of the county or city within which the polling place is located. Each representative shall present to the officers of election a written statement designating him to be a representative of the party or candidate and signed by the county or city chairman of his political party, the independent candidate, or the primary candidate, as appropriate. No candidate whose name is printed on the ballot shall serve as a representative of a party or candidate for purposes of this section.

D. It shall be unlawful for any authorized representative, voter, or any other person in the room to (i) hinder or delay a qualified voter; (ii) give, tender, or exhibit any ballot, ticket, or other campaign material to any person; (iii) solicit or in any manner attempt to influence any person in casting his vote; (iv) hinder or delay any officer of election; or (v) otherwise impede the orderly conduct of the election.

E. The officers of election may require any person who is found by a majority of the officers present to be in violation of this section to remain outside of the prohibited area. Any person violating subsection A or D of this section shall be guilty of a Class 1 misdemeanor.

F. This section shall not be construed to prohibit a candidate from entering any polling place on the day of the election to vote or to visit the polling place for no longer than ten minutes provided that he complies with the restrictions stated above which are applicable to party and candidate representatives.

G. This section shall not be construed to prohibit a minor from entering a polling place on the day of the election to vote in a simulated election at that polling place, provided that the local electoral board has determined that such polling place can accommodate simulated election activities without interference or substantial delay in the orderly conduct of the official voting process. Persons supervising or working in a simulated election in which minors vote may remain within such polling place. The local electoral board and the chief officer for the polling place shall exercise authority over, but shall have no responsibility for the administration of, simulated election related activities at the polling place.

H. A local electoral board, and its general registrar, may conduct a special election day program for high school students, selected by the electoral board

in cooperation with high school authorities, in one or more polling places designated by the electoral board, other than a central absentee voter precinct. The program shall be designed to stimulate the students' interest in elections and registering to vote, provide assistance to the officers of election, and ensure the safe entry and exit of elderly and disabled voters from the polling place. Each student shall take and sign an oath as an election page, serve under the direct supervision of the chief officer of election of his assigned polling place, and observe strict impartiality at all times. Election pages may observe the electoral process and seek information from the chief officer of election, but shall not handle or touch ballots, voting machines, or any other official election materials, or enter any voting booth. (Code 1950, §§ 24-186, 24-188; 1970, c. 462, § 24.1-101; 1971, Ex. Sess., c. 119; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1984, c. 480; 1993, cc. 413, 641; 1997, c. 328; 2000, cc. 215, 268.)

Cross references. — As to punishment for Class 1 misdemeanors, see § 18.2-11.

Editor's note. — Acts 1993, c. 413 amended former § 24.1-101, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above. In accordance with c. 413, the last sentence in subsection C was added, and subsection F was added.

The 2000 amendments. — The 2000 amendments by cc. 215 and 268 are virtually identical, and added subsection H.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

Former § 24.1-101 applies to primary elections, in view of the provisions of former § 24.1-178. *Xippas v. Commonwealth*, 141 Va. 497, 126 S.E. 207 (1925) (decided under prior law).

It applies only to offenses committed on the day of the election. *Xippas v. Commonwealth*, 141 Va. 497, 126 S.E. 207 (1925) (decided under prior law).

§ 24.2-604.1. Signs for special entrances to polling places. — The electoral board shall provide and have posted outside each polling place appropriate signs to direct people with disabilities and elderly persons to any special entrance designed for their use. (1993, c. 160, § 24.1-97.1; 1993, c. 641.)

Editor's note. — Acts 1993, c. 160 enacted former § 24.1-97.1, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993,

c. 641, cl. 6, effect has been given to this section, as set out above.

§ 24.2-605. Loudspeakers prohibited at polls; penalty. — Notwithstanding any contrary statute or ordinance of a county, city, or town, except for school purposes or in an emergency, no loudspeaker shall be used within 300 feet of a polling place on an election day. Any person violating this section shall be guilty of a Class 4 misdemeanor. (1976, c. 616, § 24.1-96.1; 1993, c. 641.)

Cross references. — As to punishment for Class 4 misdemeanors, see § 18.2-11.

§ 24.2-606. Preservation of order at elections. — The officers of election, with the consent of the chief law-enforcement officer for the county or city, may designate a law-enforcement officer who shall attend at the polling place and preserve order inside and outside the polling place. If no law-enforcement officer is in attendance, the officers of election may appoint, in writing, one or more persons specially, who shall have all the powers of a law-enforcement officer in the polling place and within the prohibited area prescribed by § 24.2-604. (Code 1950, § 24-189; 1970, c. 462, § 24.1-103; 1993, c. 641.)

§ 24.2-607. Prohibited conduct; intimidation of voters; disturbance of election; how prevented; penalties. — A. It shall be unlawful for any person to hinder, intimidate, or interfere with any qualified voter so as to

prevent the voter from casting a secret ballot. The officers of election may order a person violating this subsection to cease such action. If such person does not promptly desist, the officers of election, or a majority of them, may order the arrest of such person by any person authorized by law to make arrests, and, by their warrant, may commit him to the county or city jail, as the case may be, for a period not exceeding twenty-four hours. Any person violating this subsection shall be guilty of a Class 1 misdemeanor.

B. No person shall conduct himself in a noisy or riotous manner at or about the polls so as to disturb the election or insult or abuse an officer of election. Any person authorized to make arrests may forthwith arrest a person engaging in such conduct and bring him before the officers of the election, and they, by their warrant, may commit him to the county or city jail, as the case may be, for a period not exceeding twenty-four hours; but they shall permit him vote if he is so entitled. (Code 1950, §§ 24-190, 24-192; 1970, c. 462, § 24.1-104; 1993, c. 641.)

Cross references. — As to punishment for Class 1 misdemeanors, see § 18.2-11.

Former § 24.1-104 was not repugnant to the Constitution of the United States and invalid, as depriving a person of his liberty without due process of law or punishing a citizen without a trial, without a proper warrant for his arrest, and without a trial by jury. *Cox v. Gilmer*, 88 F. 343 (W.D. Va. 1898) (decided under prior law).

It does not confer power to inflict pun-

ishment. — Former § 24.1-104 does not confer upon the judges of election the power to inflict punishment. It confers upon the judges of election the authority, where a person is, in their judgment, violating the provisions of former § 24.1-104, and, after he has been ordered to cease such action, refuses to desist, to order his arrest, and to commit him for a time not exceeding 24 hours. *Cox v. Gilmer*, 88 F. 343 (W.D. Va. 1898) (decided under prior law).

§ 24.2-608. Officers to decide order of voting. — The officers of election shall promptly decide any dispute as to the order in which qualified voters may vote, deciding who first offered, or if two or more offered at the same time, selecting the one who may vote first. (Code 1950, § 24-187; 1970, c. 462, § 24.1-102; 1993, c. 641.)

§ 24.2-609. Voting booths. — Each electoral board shall provide at each polling place in its county or city one or more voting booths. At least one booth shall be an enclosure which permits the voter to vote by paper ballot in secret and is equipped with a writing surface and operative writing implements and adequately lighted. Enclosures for voting equipment shall provide for voting in secret and be adequately lighted. "Voting booth" includes enclosures for voting paper ballots and for voting equipment. (Code 1950, §§ 24-185, 24-302; 1970, c. 462, §§ 24.1-100, 24.1-212; 1971, Ex. Sess., c. 119; 1985, c. 458; 1993, c. 641.)

§ 24.2-610. Materials at polling places. — A. The State Board shall provide copies of this title to each electoral board for each precinct in its county or city. The electoral board shall furnish a copy of this title to each precinct for the use of the officers of election on election day.

B. The State Board shall transmit to the secretary of each electoral board pollbooks for each precinct in its county or city of sufficient size to contain the full names of all the voters in the precinct. The pollbooks shall be uniform throughout the Commonwealth.

C. The electoral board, general registrar, and officers of election shall comply with the requirements of this title and the instructions of the State Board to ensure that the pollbooks, ballots, precinct registered voter lists, voting equipment keys, and other materials and supplies required to conduct the election are delivered to the polling place before 6:00 a.m. on the day of the election and delivered to the proper official following the election. (Code 1950,

§§ 24-115, 24-207 through 24-209, 24-256, 24-306; 1950, p. 245; 1956, c. 235; 1958, c. 605; 1962, c. 536; 1968, c. 141; 1970, c. 462, §§ 24.1-57, 24.1-107, 24.1-134, 24.1-316; 1971, Ex. Sess., c. 119; 1972, cc. 620, 794; 1974, c. 428; 1975, c. 515, § 24.1-100.1; 1978, c. 778; 1981, c. 425; 1982, c. 650; 1985, c. 458; 1993, c. 641.)

§ 24.2-611. Form and signing of pollbooks; use of precinct registered voter lists. — A. The following oath shall be on a form prescribed by the State Board, administered to all officers of election, and kept by the officers of election with the pollbook:

“I do solemnly swear (or affirm) that I will perform the duties for this election according to law and the best of my ability, and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting this election.”

The oath shall be administered to each officer of election by the general registrar, the secretary of the electoral board, or an officer of election designated by them, who shall be so identified on the form. The oath shall be signed by each officer of election and the person administering the oath. The pollbook shall be marked to identify the election for which it is used.

B. The State Board shall provide a second or a divisible precinct registered voter list to serve as the pollbook for elections conducted on and after July 1, 1995. The second or divisible list shall (i) provide a space for the officer of election to record the name and consecutive number of the voter at the time he offers to vote and (ii) be retained in accordance with the provisions governing pollbooks in this title. The State Board shall provide a numerical check sheet to be used to determine the consecutive number to be recorded with the name of the voter by the officer of election. When the name and number of the last qualified voter have been entered on the registered voter list, the officer of election responsible for that list shall sign a statement on the check sheet certifying the number of qualified registrants who have voted. The State Board shall provide instructions to the local electoral boards, general registrars, and officers of election for the conduct of the election and for procedures for entering a voting record for each voter and recording each voter's name, including voters unable to enter the polling place, and for verifying the accurate entry of the voting record for each registrant on the Virginia Voter Registration System.

C. The State Board shall be authorized to conduct pilot programs in one or more localities, with the consent of the electoral board of the locality, to test the use of a combined precinct registered voter list and pollbook, notwithstanding any other provision of law to the contrary. The pilot programs authorized by this subsection may be conducted at any election held prior to July 1, 2003. Any pilot program conducted by the State Board shall incorporate safeguards to assure that the records of the election, including a combined precinct registered voter list and pollbook, voter count sheets, or other alternative records, will provide promptly an accurate and secure record of those who have voted. The State Board shall report its evaluation of any pilot programs conducted by it and any recommendations for legislation as a result of the programs to any committee established by the General Assembly for the purpose of studying the use of a combined precinct registered voter list and pollbook and to the General Assembly prior to the 2003 Regular Session. (Code 1950, § 24-257; 1970, c. 462, § 24.1-135; 1971, Ex. Sess., c. 119; 1976, c. 616; 1980, c. 639; 1981, c. 425; 1993, c. 641; 1994, c. 321; 1999, c. 810; 2000, c. 2; 2001, c. 839.)

The 1999 amendment added subsection C. in subsection C, substituted “July 1, 2001” for “January 1, 2000” at the end of the second amendment by c. 2, effective February 1, 2000, sentence; and inserted “and 2001” following

"year 2000" and substituted "Sessions" for "Session" near the end of the last sentence.

The 2001 amendments. — The 2001 amendment by c. 837, in subsection C, substituted "2003" for "2001" at the end of the first sentence and substituted "any committee established by the General Assembly for the purpose of studying the use of a combined precinct registered voter list and pollbook and to the

General Assembly prior to the 2003 Regular Session" for "the Committee on Privileges and Elections of the General Assembly prior to the year 2000 and 2001 Regular Sessions of the General Assembly" in the last sentence.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

ARTICLE 2.

Ballots.

§ 24.2-612. List of offices and candidates filed with State Board and checked for accuracy; when ballots printed; number required. — Immediately after the expiration of the time provided by law for a candidate for any office to qualify to have his name printed on the official ballot and prior to printing the ballots for an election, each electoral board shall forward to the State Board a list of the county, city, or town offices to be filled at the election and the names of all candidates who have filed for each office. In addition, each electoral board shall forward the name of any candidate who failed to qualify with the reason for his disqualification. The State Board shall promptly advise the electoral board of the accuracy of the list. The failure of any electoral board to send the list to the State Board for verification shall not invalidate any election.

Each electoral board shall have printed the number of ballots it determines will be sufficient to conduct the election.

The electoral board shall make printed ballots available for absentee voting at least (i) forty-five days prior to any November general election or special election held at the same time; (ii) thirty days prior to any other general, special, or primary election; or (iii) in the case of a special election, if time is insufficient to meet the applicable deadline established herein, then as soon after the deadline as possible.

Only the names of candidates for offices to be voted on in a particular election district shall be printed on the ballots for that election district.

The electoral boards shall send to the State Board a statement of the number of paper ballots ordered to be printed, proofs of each paper and voting equipment ballot for verification, and copies of each final ballot. If the State Board finds that, in its opinion, the number of ballots ordered to be printed by any local electoral board is not sufficient, it may direct the local board to order the printing of a reasonable number of additional ballots. (Code 1950, §§ 24-213, 24-214; 1952, c. 4; 1954, c. 513; 1956, c. 395; 1970, c. 462, § 24.1-109; 1972, c. 620; 1980, c. 639; 1981, c. 425; 1984, c. 480; 1993, c. 641.)

Editor's note. — Acts 2000, c. 908, cl. 1 and cl. 2, provide:

"1. § 1. The provisions of this act shall apply to the November 6, 2001, elections for members of the House of Delegates of Virginia, for constitutional officers, for members of county governing bodies, and for members of county school boards.

"§ 2. The State Board of Elections shall be authorized to reschedule the June 12, 2001, primary date for these offices to any Tuesday after June 12, 2001, and not later than September 11, 2001, if it appears that the necessary 2001 reapportionment or redistricting will not

be completed, and preclearance from the appropriate United States authority under § 5 of the United States Voting Rights Act of 1965 will not be received, in time for those primaries to be held on June 12, 2001.

"§ 3. The new primary date set by the State Board of Elections shall not be less than thirty days after the Board votes, in open meeting, to set such new date. The State Board of Elections may vote, no later than May 12, 2001, to postpone the June 12, 2001, primary for these offices without deciding a new date. Any meeting called for the purpose of postponing the primary date or setting a new primary date

may not be called with less than seven-days notice to the public and the interested parties. The State Board of Elections shall, at the same time that it sets the new primary date, approve a revised schedule of filing dates for such primary and specify which previously filed documents shall continue to be acceptable despite their referencing the June 12, 2001, primary date.

“§ 4. If the primary is held later than August 1, 2001, ballots for the November 2001 election

shall be printed on or before Friday, October 5, 2001, or as soon thereafter as practicable, notwithstanding § 24.2-612.

“2. That the provisions of this act shall expire on January 1, 2002.”

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

Applied in *Edmonds v. Gilmore*, 988 F. Supp. 948 (E.D. Va. 1997).

§ 24.2-612.1. Ballots; death, withdrawal, or disqualification of candidates. — In the case of the death, withdrawal, or disqualification of any candidate, other than a party nominee, who has qualified to have his name printed on the ballot for any election other than a presidential or primary election, the State Board of Elections shall take into account the time available before the election and the status of the ballots for the election and shall have authority to direct the electoral boards on how to proceed to print the ballot without the candidate's name, correct the ballot to delete the candidate's name, or provide notice to voters of the death, withdrawal, or disqualification of the candidate.

The State Board shall have like authority in the case of the death, withdrawal, or disqualification of a party nominee subject to the provisions of Article 5 (§ 24.2-539 et seq.) of Chapter 5 of this title. (1995, c. 329.)

§ 24.2-613. Form of ballot. — The ballots shall be white paper without any distinguishing mark or symbol and shall contain the names of all the candidates qualifying to have their names printed on the official ballot as provided by law. Their names shall be printed in black ink, immediately below the office for which they have qualified as candidates. The names on the ballot shall be in clear print; each name shall be on a separate line; and the type used in printing the ballots shall be plain roman type, not smaller than twelve-point pica. Immediately to the left of and on the same line with the name of each candidate shall be printed a square, not less than one-quarter, nor more than one-half inch in size, printed thus:

JOHN DOE

However, the provisions of this title pertaining to ballot squares shall not be applicable to punchcard or mark sense ballots.

For elections for federal, statewide, and General Assembly offices only, each candidate who has been nominated by a political party or in a primary election shall be identified by the name of his political party. Independent candidates shall be identified by the term “Independent.” The name of the political party or term “Independent” may be shown by an initial or abbreviation to meet ballot requirements.

Except as provided for primary elections, the State Board shall determine by lot the order of the political parties, and the names of all candidates for a particular office shall appear together in the order determined for their parties. In an election district in which more than one person is nominated by one political party for the same office, the candidates' names shall appear alphabetically in their party groups under the name of the office, with sufficient space between party groups to indicate them as such. For the purpose of this section and § 24.2-640, except as provided for presidential elections in § 24.2-614, independent candidates shall be treated as a class under “Independent”; their names shall be placed on the ballot after the political parties; and where there is more than one independent candidate for an office, their names shall appear alphabetically.

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

In preparing the ballots for general, special and primary elections, the State Board and electoral boards shall cause to be printed in not less than ten-point type, immediately below the title of any office, a statement of the number of candidates who may be voted for for that office. The following language shall be used: "Vote for not more than"

At any precinct at which mark sense ballots are used, the mark sense ballot may be used in lieu of the official paper ballot with the approval of the State Board.

Any locality which uses mark sense ballots at one or more precincts, including any central absentee precinct, may, with the approval of the State Board, use the mark sense ballot or printed reproductions of the mark sense ballot in lieu of the official paper ballot. Such reproductions shall be printed and otherwise handled in accordance with all laws and procedures that apply to official paper ballots. (Code 1950, §§ 24-215, 24-217; 1970, c. 462, §§ 24.1-111, 24.1-113; 1971, Ex. Sess., c. 119; 1972, c. 620; 1973, c. 30; 1974, c. 428; 1980, c. 639; 1981, c. 425; 1993, c. 641; 2000, cc. 282, 514, 866.)

Cross references. — For constitutional provisions as to ballots, see Va. Const., Art. II, § 3.

The 2000 amendments. — The 2000 amendments by cc. 282 and 866 are identical, and added the present second paragraph and the last two paragraphs.

The 2000 amendment by c. 514, effective January 1, 2001, added the present third paragraph, and deleted the former third paragraph, referring to the prohibition against names of political parties appearing on ballots.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

Former § 24.1-111 was not unconstitutional, despite a possibility that voter confusion may result from the manner in which a candidate's name would be placed on a ballot prepared in accordance with former § 24.1-111. State Bd. of Elections v. Forb, 214 Va. 264, 199 S.E.2d 527 (1973) (decided under former § 24.1-111 as it stood before the 1980 amendment).

Purpose for which independents

deemed political party. — Former § 24.1-111 provided a practical, reasonable method for determining the order and manner in which names of candidates are placed on a ballot. Only for the purpose of implementing that method, and for no other purpose, are independents deemed a political party. State Bd. of Elections v. Forb, 214 Va. 264, 199 S.E.2d 527 (1973) (decided under former § 24.1-111 as it stood before the 1980 amendment).

The ballot does not describe the independents as a political party; former § 24.1-111 forbids such description. State Bd. of Elections v. Forb, 214 Va. 264, 199 S.E.2d 527 (1973) (decided under former § 24.1-111 as it stood before the 1980 amendment).

Nor does position on the ballot suggest that an independent candidate shares the philosophy or platform of any other independent candidate. State Bd. of Elections v. Forb, 214 Va. 264, 199 S.E.2d 527 (1973) (decided under former § 24.1-111 as it stood before the 1980 amendment).

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

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

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

Groups of petitioners qualifying for a party name under § 24.2-543 shall be treated as a class; the order of the groups shall be determined by lot by the State Board; and the groups shall immediately follow the independent class on the ballot. The order of the candidates within the independent class shall be determined by lot by the State Board. (Code 1950, §§ 24-215, 24-290.4; 1952, c. 330; 1970, c. 462, §§ 24.1-111, 24.1-160; 1971, Ex. Sess., c. 119; 1972, c. 620; 1973, c. 30; 1980, c. 639; 1981, c. 425; 1982, c. 650; 1984, c. 480; 1993, c. 641; 1997, c. 209.)

Cross references. — For constitutional provisions as to ballots, see Va. Const., Art. II, § 3.

§ 24.2-615. Separate ballots for proposed constitutional amendments, etc.; uniform ballots. — A separate ballot shall be printed for each of the following: proposed amendments to the Constitution submitted to the qualified voters at one election; proposals submitted to the qualified voters after a constitutional convention pursuant to Article XII, Section 2 of the Constitution; candidates for President, Vice-President, and presidential electors; and candidates for the Congress of the United States.

The form of the ballot shall be the same throughout the election district in which the same candidates are running to fill the same offices and throughout the district in which a question is submitted to the voters. (Code 1950, § 24-216; 1952, c. 581; 1970, c. 462, § 24.1-112; 1971, Ex. Sess., c. 119; 1993, c. 641.)

Cross references. — For constitutional provisions as to ballots, see Va. Const., Art. II, § 3. reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

Law Review. — For survey of election law

§ 24.2-616. Duties of printer; statement; penalty. — The printer contracting with or employed by the electoral board to print the ballots shall sign a statement before the work is commenced agreeing, subject to felony penalties for making false statements pursuant to § 24.2-1016, that he will print the number of ballots requested by the electoral board in accordance with its instructions; that he will print, and permit to be printed, directly or indirectly, no more than that number; that he will at once destroy all imperfect and perfect impressions other than those required to be delivered to the electoral board; that as soon as such number of ballots is printed he will distribute the type, if any, used for such work; and that he will not communicate to anyone, in any manner, the size, style, or contents of such ballots.

A similar statement shall be required of any employee or other person engaged in the work. (Code 1950, § 24-218; 1970, c. 462, § 24.1-114; 1976, c. 616; 1993, c. 641.)

§ 24.2-617. Representative of electoral board to be present at printing; custody of ballots; electoral board may disclose contents, style, and size. — The electoral board shall designate one person to be continuously present in the room in which the ballots are printed from the start to the end of the work and ensure that the undertakings of the printer's statement are complied with strictly. For the discharge of this duty the person, other than a board member, shall receive at least twenty dollars per day.

As soon as the ballots are printed they shall be securely wrapped and sealed, and the designated person shall assure their delivery to the electoral board, allowing no one to examine them until delivery.

The designated person shall sign a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that he has faithfully

performed his duties, that the printer has complied with the requirements of law, and that only the requested number of ballots have been printed and are being delivered to the electoral board.

This section shall not be construed to prohibit any electoral board from publishing or otherwise disclosing the contents, style, and size of ballots, which information electoral boards are authorized to publish or otherwise disclose. (Code 1950, §§ 24-219, 24-220.1, 24-221; 1970, c. 462, § 24.1-115; 1980, c. 639; 1993, c. 641.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-618. Delivery of ballots to electoral board; checking and recording number. — The electoral board shall designate one of its members or employees or the general or an assistant registrar to receive the ballots after they are printed. The member of the board or other such designated person shall certify the number of ballots received. This certificate shall be filed with the minutes of the board. (Code 1950, §§ 24-223, 24-224; 1970, c. 462, § 24.1-116; 1993, c. 641; 1997, c. 460.)

Powers of electoral board are not delegable. — To hold that the electoral board may delegate its power as to counting, sealing, etc., of ballots in any and all events would be to

destroy the legislative intent in regard to the protection of the ballots. *Xippas v. Commonwealth*, 141 Va. 497, 126 S.E. 207 (1925) (decided under prior law).

§ 24.2-619. Sealing ballots. — The electoral board shall designate one of its members or some other person to cause the seal of the board to be affixed in his presence to every ballot printed as provided in this chapter. The seal shall be on the side reverse from that on which the names of the candidates appear. The seal may be affixed on the ballot either mechanically or manually. The member of the board or other person designated shall sign a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that the seal of the electoral board was affixed to the ballots in his presence in the manner prescribed by law, setting forth the name of every person taking part in the affixing of the seal, and stating that he has faithfully performed his duties. His statement shall be filed with the minutes of the board. For his services in causing the seal to be affixed to the ballots, the person designated, other than a board member, shall receive at least twenty dollars per day.

Any person, other than the secretary of the board, designated to attend to the stamping of the ballots, shall return the seal to the secretary as soon as the stamping of the ballots is completed.

Every person taking part in affixing the seal to the ballots or in placing the ballots in packages shall give his statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that he has faithfully performed his duties and that he will not divulge to anyone the contents of the ballots or any part thereof. These statements shall be filed with the secretary of the board and retained with the minutes of the board. (Code 1950, §§ 24-225, 24-228, 24-229; 1950, p. 165; 1970, c. 462, §§ 24.1-117, 24.1-118; 1971, Ex. Sess., c. 119; 1980, c. 639; 1993, c. 641.)

§ 24.2-620. Dividing ballots into packages for each precinct; delivery of absentee ballots. — The electoral board shall cause to be made, in the presence of at least one member of the board, or an employee of the board or the general or an assistant registrar designated by the board, one or more

packages of ballots for each precinct in the election district. Each package shall contain a number of ballots determined by the board. Each of these packages shall be securely sealed in the presence of a member of the board or such designated person so that the ballots shall be invisible, and so that the packages cannot be readily opened without detection. On each of the packages shall be endorsed the name of the precinct for which it is intended and the number of ballots therein contained. Thereafter the packages designated for each precinct shall be delivered to the secretary of the board and remain in his exclusive possession until delivered by him, or by another board member, board employee, the general or an assistant registrar designated by the board, to the officers of election of each precinct as provided in § 24.2-621.

The electoral board shall have sufficient ballots for those offering to vote absentee delivered to the general registrar and secretary of the electoral board by the deadline stated in § 24.2-612. Any such ballots remaining unused at the close of the polls on election day shall be sent by the general registrar and the secretary of the electoral board to the clerk of the circuit court of the county or city. (Code 1950, §§ 24-226, 24-227; 1970, c. 462, § 24.1-119; 1971, Ex. Sess., c. 119; 1972, c. 620; 1982, c. 650; 1984, c. 480; 1993, c. 641; 1997, c. 460.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-621. Delivery of packages to officers; opening packages. — Before every election the secretary of the electoral board, or another board member, board employee, or the general or an assistant registrar designated by the board, shall deliver to an officer of election of each precinct the official ballots for that precinct and obtain a receipt for the package or packages and a certificate that the seals are unbroken. If the secretary or other such designated person is unable to deliver the official ballots, another member of the board shall deliver the ballots.

Before opening the polls, the officers of election shall open the sealed package and carefully count the ballots. If there is more than one package, additional packages shall be opened as needed and the ballots counted as provided in this section. (Code 1950, §§ 24-230, 24-231; 1970, c. 462, §§ 24.1-120, 24.1-121; 1993, c. 641; 1997, c. 460.)

§ 24.2-622. Sample ballots. — Nothing contained in this title shall be construed to prohibit: (i) the printing and circulation of sample paper ballots, which are not printed on white paper and do include thereon the words "sample ballot" in type no smaller than twenty-four point; (ii) the printing and circulation of sample voting equipment ballots, provided such sample ballots include on their face the words "sample ballot"; or (iii) the publication in newspapers of sample ballots of either type. All sample ballots, including those authorized by electoral boards, are "writings" for purposes of § 24.2-1014. Voters may take sample ballots into the voting booth or enclosure. (Code 1950, § 24-240; 1970, c. 462, § 24.1-122; 1974, c. 428; 1979, c. 265; 1993, c. 641.)

§ 24.2-623. Ballot boxes to be supplied by governing bodies; construction and custody. — The governing body of each county and city shall provide a ballot box for each precinct and each part of a split precinct. The box shall have a lock and key and an opening through the lid of sufficient size to admit a single folded ballot and no more. The boxes shall be kept by the electoral boards for use in the precincts. (Code 1950, § 24-241; 1970, c. 462, § 24.1-123; 1993, c. 641.)

§ 24.2-624. Opening and closing ballot boxes; opening polls. — Immediately before the opening of the polls, an officer of election shall open the ballot boxes in the presence of the political party or candidate representatives authorized to be present for the examination of voting equipment pursuant to § 24.2-639, if such representatives are available. The officers shall turn such boxes upside down so as to empty them, lock them, and deliver the key to one of the officers. One of the officers shall forthwith proclaim that the polls are open. The boxes shall not be opened until the close of the polls and shall then be opened for the purpose of counting the ballots therein. The boxes shall be kept in view of those voting within the polling place during the hours of the election. (Code 1950, §§ 24-242, 24-243; 1970, c. 462, § 24.1-124; 1972, c. 620; 1993, c. 641.)

Cross references. — For constitutional provisions as to method of voting, including treatment of ballot box, see Va. Const., Art. II, § 3.

ARTICLE 3.

Voting Equipment and Systems.

§ 24.2-625. Application of Title 24.2 and general law. — All of the provisions of this title and general law not inconsistent with the provisions of this article shall apply to elections in counties, cities, and towns adopting and using mechanical or electronic voting or counting systems. (Code 1950, § 24-315; 1970, c. 462, § 24.1-225; 1985, c. 458; 1993, c. 641.)

§ 24.2-626. Governing bodies shall acquire mechanical or electronic voting or counting systems. — A. The governing body of each county having an optional form of government and of each city shall provide for the use of mechanical or electronic voting or counting systems, of a kind approved by the State Board, at every precinct and for all elections held in the county, the city, or any part of the county or city. The governing body of every other county shall provide for the use of such systems at every precinct having 750 or more registered voters. No county shall divide or create precincts so that resulting precincts will contain fewer than 750 registered voters, in order to avoid the requirements of this section.

Each county and city governing body shall purchase, lease, lease purchase, or otherwise acquire such systems and may provide for the payment therefor in the manner it deems proper. Systems of different kinds may be adopted for use and be used in different precincts of the same county or city, or within a precinct or precincts in a county or city, subject to the approval of the State Board.

Any county may acquire such systems for precincts containing fewer than 750 registered voters.

The governing body of a town may provide for the use of paper ballots, in lieu of such systems, in elections for town offices and in town referendum elections if every town precinct contains 500 or fewer registered voters.

B. Notwithstanding the provisions of subsection A of this section, the governing body of any county may elect to use paper ballots throughout the county so long as the county meets the following criteria: (i) the population of the county is less than 7,000 according to the 1990 United States Census; (ii) the county is divided into six precincts; (iii) no precinct contains 1,000 or more registered voters; and (iv) the county has not provided for the use of mechanical or electronic voting or counting systems in any precinct prior to July 1, 1996. (Code 1950, § 242-291; 1970, c. 462, § 24.1-203; 1971, Ex. Sess., c. 119;

1972, c. 620; 1974, c. 428; 1976, c. 616; 1982, c. 650; 1985, c. 458; 1987, c. 129; 1993, c. 641; 1996, c. 258; 2000, c. 280.)

Cross references. — As to the minimum number of voting machines or devices in the various precincts, see now § 24.2-627.

The 2000 amendments. — The 2000 amendment by c. 280 inserted “or within a precinct or precincts in a county or city” in the second paragraph of subsection A.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

The use of an election official to set a primary lever correctly for separate voting of freeholders and nonfreeholders was within the purview of the statutes relating to machine voting. Falls Church Taxpayers League v. City

of Falls Church, 203 Va. 604, 125 S.E.2d 817 (1962) (decided under prior law).

City charter referring to “separate ballot box” for freeholders. — In light of the broad statutory authorization relating to the use of voting machines, provisions in a city charter referring to the use of a “separate ballot box” for freeholders in a bond election should not be read as invalidating the use of voting machines with a special setting made to record the vote of a freeholder. Falls Church Taxpayers League v. City of Falls Church, 203 Va. 604, 125 S.E.2d 817 (1962) (decided under prior law).

§ 24.2-627. Mechanical and electronic voting or counting devices; number required. — A. The governing body of any county or city which adopts for use at elections mechanical or direct electronic voting systems shall provide for each precinct at least the following number of voting devices:

In each precinct having not more than 750 registered voters, 1;

In each precinct having more than 750 but not more than 1,500 registered voters, 2;

In each precinct having more than 1,500 but not more than 2,250 registered voters, 3;

In each precinct having more than 2,250 but not more than 3,000 registered voters, 4;

In each precinct having more than 3,000 but not more than 3,750 registered voters, 5;

In each precinct having more than 3,750 but not more than 4,500 registered voters, 6;

In each precinct having more than 4,500 but not more than 5,000 registered voters, 7.

B. The governing body of any county or city, which adopts for use at elections any electronic system which requires the voter to vote a ballot which is inserted in an electronic counter, shall provide for each precinct at least one voting booth with a marking device for each 425 registered voters or portion thereof and shall provide for each precinct at least one counting device.

C. The local electoral board of any county or city shall be authorized to conduct any May general election, primary election, or special election held on a date other than a November general election with the number of voting or marking devices it determines is appropriate for each precinct, notwithstanding the provisions of subsections A and B of this section. (1985, c. 458, §§ 24.1-203.1, 24.1-203.2; 1993, c. 641; 1996, c. 271; 1997, cc. 304, 336.)

§ 24.2-628. Authorized use of mechanical voting devices. — A. Any person, firm, or corporation manufacturing, owning, or offering for sale any mechanical voting device may apply to the State Board, in the manner prescribed by the Board, to examine and approve such device. The Board shall make, or have made, a report on the capacity of the device accurately to register and count votes, and in respect to its mechanical perfections and imperfections, and whether it meets the requirements prescribed in this chapter. The report shall be filed in the office of the Board and shall state whether the kind of device so examined can be safely and conveniently used at

elections. If the Board determines that the device can be so used, and meets the requirements prescribed in this chapter, the Board shall approve the device for use at elections. No form of voting device not so approved shall be used at any election.

B. Any kind of mechanical voting device may be approved by the Board which meets the following requirements:

1. It shall provide facilities for voting for all candidates of as many political parties as may make nominations at any election; on as many questions as may be submitted at any election; and at all general or special elections, permit the voter to vote for all of the candidates of one party or in part for the candidates of one or more parties. It shall enable the voter to vote for as many persons for an office as lawfully permitted, but no more; prevent the voter from voting for the same person more than once for the same office; and enable the voter to vote on any question he is lawfully permitted to vote on, but no other.

2. For use at primary elections, it shall be equipped so that all rows except those of the voter's party can be locked out by the officers of election by means of an adjustment on the outside of the device.

3. It shall correctly register or record, and accurately count all votes cast for candidates and on questions.

4. It shall be provided with a "protective counter" whereby any operation of the device before or after the election will be detected.

5. It shall be provided with a counter which shall show at all times during an election how many persons have voted.

6. It shall be provided with a mechanical model, illustrating the manner of voting and suitable for the instruction of voters.

7. It shall enable each voter to vote for all the presidential electors of one party by one operation. It shall have a ballot containing the words "Electors For" preceded by the name of the party or other authorized designation and the names of its candidates for the offices of President and Vice-President and a mechanism which registers the collective vote cast for such electors.

8. It shall ensure voting in absolute secrecy. (Code 1950, §§ 24-293, 24-294; 1970, c. 462, §§ 24.1-204, 24.1-205; 1985, c. 458; 1993, c. 641.)

§ 24.2-629. Authorized use of electronic systems and ballots. —

A. Any person, firm, or corporation hereinafter referred to as the "vendor," manufacturing, owning, or offering for sale any electronic voting or counting system and ballots designed to be used with such equipment may apply to the State Board, in the manner prescribed by the Board, to have examined a production model of such equipment and the ballots used with it. In addition to any other materials which may be required, a current statement of the financial status of the vendor, including any assets and liabilities, shall be filed with the Board; if the vendor is not the manufacturer of the equipment for which application is made, such a statement shall also be filed for the manufacturer. These statements shall be exempt from the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.). The Board shall also require, at a site of its choosing, a demonstration of such system and ballots and may require that a production model of the system and a supply of ballots be provided to the Board for testing purposes.

B. The provisions of this title pertaining to mechanical voting devices and ballots shall be deemed applicable to such equipment and ballots provided that (i) the counting equipment used with punchcard or mark sense ballots shall not be required to prevent a voter from voting for a greater number of candidates than he is lawfully entitled to; (ii) the provisions of this title pertaining to ballot squares shall not be applicable to punchcard or mark sense ballots; and (iii) any system approved pursuant to this title shall segregate ballots containing write-in votes from all others. Every electronic voting system shall

ensure voting in absolute secrecy, and systems requiring the voter to vote a ballot which is inserted in an electronic counting device shall provide for secrecy of the ballot and a method to conceal the voted ballot. Systems requiring the voter to vote a ballot that is inserted in an electronic counting device shall report, if possible, the number of ballots on which a voter voted for a lesser number of candidates for an office than the number he was lawfully entitled to vote and the number of ballots on which a voter voted for a greater number of candidates than the number he was lawfully entitled to vote. Electronic voting devices shall be programmable, if possible, to allow such undervoted and overvoted ballots to be separated when necessary.

C. After its examination of the equipment, ballots, and other materials submitted by the vendors, the Board shall prepare and file in its office a report of its finding as to (i) the apparent capability of such equipment to accurately count, register, and report votes; (ii) whether the system can be conveniently used without undue confusion to the voter; (iii) its accessibility to voters with disabilities; (iv) whether the system can be safely used without undue potential for fraud; (v) the ease of its operation and transportation by voting equipment custodians and officers of election; (vi) the financial stability of the vendor and manufacturer; (vii) whether the system meets the requirements of this title; and (viii) whether, in the opinion of the Board, the potential for approval of such system is such as to justify further examination and testing.

D. If the Board determines that there is such potential and prior to its final determination as to approval or disapproval of such system, the Board shall obtain a report by an independent electronics or engineering consultant as to (i) whether the system accurately counts, registers, and reports votes; (ii) whether it is capable of storing and retaining existing votes in a permanent memory in the event of power failure during and after the election; (iii) the number of separate memory capabilities for the storage of recorded votes; (iv) its mechanical and electronic perfections and imperfections; (v) the audit trail provided by the system; (vi) the anticipated frequency of repair; (vii) the ease of repair; (viii) the anticipated life of the equipment; (ix) its potential for fraudulent use; (x) its accessibility to voters with disabilities; (xi) the ease of its programming, transportation, and operation by voting equipment custodians and officers of election; and (xii) any other matters deemed necessary by the Board. Failure by an applicant to cooperate with the consultant by furnishing information and production equipment and ballots requested shall be deemed a withdrawal of the application, but nothing in this section shall require the disclosure of trade secrets by the applicant. If such trade secrets are essential to the proper analysis of the system and are provided for that reason, the consultant shall subscribe to an oath subject to the penalty for perjury that he will neither disclose nor make use of such information except as necessary for the system analysis. The report of the consultant shall be filed in the office of the Board.

E. If the Board determines that there is potential for approval of the system and prior to its final determination, the Board shall also require that the system be tested in an actual election in one or more counties or cities. Its use at such election shall be as valid for all purposes as if it had been legally approved by the Board and adopted by the counties or cities.

F. If, following testing, the Board approves any electronic system and its ballots for use, the Board shall so notify the electoral boards of each county and city. Systems so approved may be adopted for use at elections as herein provided. No form of electronic system and ballots not so approved shall be adopted by any county or city. Any electronic system and ballots approved for use by the Board shall be deemed to meet the requirements of this title, and their use in any election shall be valid. (1985, c. 458, §§ 24.1-207.1; 1986, c. 558, § 24.1-206.3; 1993, c. 641; 1994, cc. 287, 742; 2001, cc. 640, 641.)

The 2001 amendments. — The 2001 amendment by c. 641 added the amendment by c. 640 added the last sentence in subsection B. The 2001 amendment by c. 641 added the last two sentences in subsection B.

§ 24.2-630. Experimental use of approved systems. — With the approval of the State Board, the governing body of any county, city, or town may provide for the experimental use at an election in one or more election districts or precincts of a voting or counting system which it might legally adopt without a formal adoption thereof, and its use at such election shall be valid for all purposes. (Code 1950, § 24-295; 1970, c. 462, § 24.1-206; 1985, c. 458; 1993, c. 641.)

§ 24.2-631. Experimental use of voting systems and ballots prior to approval of the system. — The State Board is authorized to approve the experimental use of voting or counting systems and ballots for the purpose of casting and counting absentee ballots in one or more counties and cities designated by the Board (i) that have established central absentee voter election districts and (ii) whose electoral board submits to the Board for approval a plan for the use of such system and ballots. The Board is also authorized to approve the experimental use of voting or counting systems and ballots in one or more precincts in any county or city whose electoral board submits to the Board for approval a plan for such use. The use of such systems and ballots at an election shall be valid for all purposes. (1980, c. 639, § 24.1-206.1; 1985, c. 458; 1993, c. 641.)

§ 24.2-632. Voting equipment custodians. — A. For the purpose of placing ballots in the frames of the voting equipment, putting voting and counting equipment in order, and setting, testing, adjusting, and delivering it, the electoral board shall employ one or more persons, to be known as custodians of voting equipment. The custodians shall be fully competent, thoroughly instructed, and sworn to perform their duties honestly and faithfully, and for such purpose shall be appointed and instructed at least thirty days before each election.

The final testing of the equipment prior to each election shall be done in the presence of an electoral board member or a representative of the electoral board. The electoral board may authorize a representative to be present at the final testing only if it is impracticable for a board member to attend, and such representative shall in no case be the custodian.

B. Notwithstanding the provisions of subsection A, the local electoral board may assign a board member or registrar to serve as a custodian without pay for such service. The board member or registrar serving as custodian shall be fully competent, thoroughly instructed, and sworn to perform his duties honestly and faithfully, and for such purpose shall be appointed and instructed at least thirty days before each election. Whenever the presence of an electoral board member and custodian is required by the provisions of this title, the same person shall not serve in both capacities. The provisions of this subsection shall be applicable only in a county or city which uses mark sense ballots in combination with electronic counting equipment for the conduct of elections. (Code 1950, §§ 24-296, 24-299; 1970, c. 462, § 24.1-209; 1973, c. 30; 1974, c. 428; 1981, c. 570; 1985, c. 458; 1993, c. 641; 1999, c. 219.)

The 1999 amendment added subsection B.

§ 24.2-633. Notice of preparation of equipment; sealing equipment. — Before preparing voting or counting equipment for any election, the electoral board shall mail written notice (i) to the chairman of the local

committee of each political party or, (ii) in a primary election, to the chairman of the local committee of the political party holding the primary, or (iii) in a city or town council election in which no candidate is a party nominee and which is held when no other election having party nominees is being conducted, to the candidates.

The notice shall state the time and place where the equipment will be prepared and state that the political party or candidate receiving the notice may have one representative present while the equipment is prepared.

At the time stated in the notice, the representatives, if present, shall be afforded an opportunity to see that the equipment is in proper condition for use at the election. When a device has been so examined by the representatives, it shall be sealed with a numbered metal seal in their presence, or, if the device cannot be sealed with a metal seal, it shall be locked with a key. The representatives shall certify as to the numbers of the devices; if mechanical voting devices are used, that all counters are set at zero (000); the number registered on the protective counter; and the number on the seal. When no party or candidate representative is present, the custodian shall seal the device as prescribed in this section in the presence of a member of the electoral board or its representative. (Code 1950, § 24-300; 1962, c. 260; 1970, c. 462, § 24.1-210; 1981, c. 425; 1985, c. 458; 1993, c. 641; 1998, c. 264.)

§ 24.2-634. Locking and securing after preparation. — When voting or counting equipment has been properly prepared for an election, it shall be locked against voting and sealed, or, if the device cannot be sealed with a metal seal, it shall be locked with a key. The equipment keys shall be retained in the custody of the electoral board and delivered to the officers of election as provided in § 24.2-639. After the voting equipment has been delivered to the polling places, the electoral board shall provide ample protection against tampering with or damage to the equipment. (Code 1950, § 24-301; 1970, c. 462, § 24.1-211; 1985, c. 458; 1993, c. 641; 1998, c. 264.)

§ 24.2-635. Demonstration of equipment. — In each county, city, or town in which voting or counting equipment is to be used, the electoral board may designate times and places for the exhibition of equipment containing sample ballots, showing the title of offices to be filled, and, so far as practicable, the names of the candidates to be voted for at the next election for the purpose of informing voters who request instruction on the use of the equipment. No equipment shall be used for such instruction after being prepared and sealed for use in any election. During exhibitions, the counting mechanism, if any, of the equipment shall be concealed from view. (Code 1950, § 24-304; 1970, c. 462, § 24.1-214; 1985, c. 458; 1993, c. 641.)

§ 24.2-636. Instruction as to use of equipment. — No fewer than three nor more than thirty days before each election, the electoral board shall instruct, or cause to be instructed, on the use of the equipment and his duties in connection therewith, each officer of election appointed to serve in the election who has not previously been so instructed. The board shall not permit any person to serve as an officer who is not fully trained to conduct an election properly with the equipment. This section shall not be construed to prevent the appointment of a person as an officer of election to fill a vacancy in an emergency. (Code 1950, § 24-303; 1970, c. 462, § 24.2-213; 1972, c. 620; 1985, c. 458; 1993, c. 641; 1998, c. 187.)

§ 24.2-637. Furniture and equipment to be at polling places. — Before the time to open the polls, each electoral board shall have the voting and

counting equipment and all necessary furniture and materials at the polling places, with counters on the voting or counting devices set at zero (000), and otherwise in good and proper order for use at the election.

The board shall have the custody of such equipment, furniture, and materials when not in use at an election and shall maintain the equipment in accurate working order and in proper repair. (Code 1950, §§ 24-296, 24-299; 1970, c. 462, § 24.1-209; 1973, c. 30; 1974, c. 428; 1981, c. 570; 1985, c. 458; 1993, c. 641.)

§ 24.2-638. Voting equipment to be in plain view; officers and others not permitted to see actual voting; unlocking counter compartment of equipment, etc. — During the election, the exterior of the voting and counting equipment and every part of the polling place shall be in plain view of the officers of election. The equipment shall be placed at least four feet from any table where an officer of election is working or seated. The officers of election shall not themselves be, or permit any other person to be, in any position or near any position that will permit them to observe how a voter votes or has voted.

One of the officers shall inspect the face of the voting device after each voter has cast his vote and verify that the ballots on the face of the device are in their proper places and that the device has not been damaged. During an election the door or other covering of the counter compartment of the voting or counting device shall not be unlocked or open or the counters exposed except for good and sufficient reasons, a statement of which shall be made and signed by the officers of election and attached to the statement of results. No person shall be permitted in or about the polling place except the voting equipment custodian and other persons authorized by this title. (Code 1950, § 24-305; 1962, c. 260; 1970, c. 462, § 24.1-215; 1985, c. 458; 1993, c. 641.)

§ 24.2-639. Duties of officers of election. — The officers of election of each precinct at which voting or counting equipment is used shall meet at the polling place by 5:15 a.m. on the day of the election and arrange the equipment, furniture, and other materials for the conduct of the election. The officers of election shall verify that all required equipment, ballots, and other materials have been delivered to them for the election. The officers shall post at least two instruction cards for mechanical or direct electronic voting devices conspicuously within the polling place.

The keys to the equipment shall be delivered, prior to the opening of the polls, to the officer of election designated by the electoral board in a sealed envelope on which has been written or printed the number of each device, the number of the seal, if any, and the number registered on the protective counter, if one. The envelope containing the keys shall not be opened until all of the officers of election for the precinct are present at the polling place and have examined the envelope to see that it has not been opened. The equipment shall remain locked against voting until the polls are formally opened and shall not be operated except by voters in voting.

Before opening the polls, each officer shall examine the equipment and see that no vote has been cast and that the counters register zero. The officers shall conduct their examination in the presence of the following party and candidate representatives: (i) in a general election, a representative of each political party, or (ii) in a primary election, a representative of each party holding a primary, or (iii) in a city or town council election in which no candidate is a party nominee and which is held when no other election having party nominees is being conducted, a representative of each candidate, if such representatives are available. If any counter is found not to register zero, the officers shall make a written statement identifying the counter, together with

the number registered on it, and shall sign and post the statement on the wall of the polling room, where it shall remain during the day of election. The officers shall enter a similar statement on the statement of results. In determining the results, they shall subtract such number from the final total registered on that counter. (Code 1950, § 24-306; 1970, c. 462, § 24.1-216; 1972, c. 620; 1985, c. 458; 1993, c. 641; 1998, c. 264.)

§ 24.2-640. Ballots generally. — In every county and city using mechanical or direct electronic voting systems requiring printed ballots, the electoral board shall furnish a sufficient number of ballots printed on plain white paper, of such form and size as will fit the ballot frames. The names of the various candidates shall be printed in type not less than fourteen point. On mechanical devices, the name of the office for which candidates are offering for election shall be printed in reverse printing or overlaid with a colored plastic strip.

For elections for federal, statewide, and General Assembly offices only, each candidate who has been nominated by a political party or in a primary election shall be identified by the name of his political party. Independent candidates shall be identified by the term "Independent." The name of the political party or term "Independent" may be shown by an initial or abbreviation to meet ballot requirements. All candidates shall be arranged on each device or other ballot to be electronically counted, either in columns or horizontal rows, and the caption of the various ballots on the devices shall be placed so that the voter knows what feature is to be used or operated to vote for his choice. No push knob, key lever or other device shall be used to vote for any candidate other than on an individual basis except for presidential electors. In districts in which more than one person is nominated by a single party for the same office, the names of the candidates shall appear alphabetically within their party groups.

The electoral board in any locality which converted from a mechanical to an electronic voting system after January 1, 1994, may use a ballot which (i) is similar to the ballot used on the mechanical system previously used in the locality, (ii) aligns the candidates of each political party and independent candidates on the same row or column, and (iii) provides a separate row or column for each political party and for independent candidates.

The provisions of general law concerning ballots shall apply unless in conflict with this section. (Code 1950, § 24-297; 1970, c. 462, § 24.1-207; 1972, c. 620; 1974, c. 428; 1985, c. 458; 1993, c. 641; 1998, c. 797; 2000, c. 514.)

The 2000 amendments. — The 2000 amendment by c. 514, effective January 1, 2001, in the second paragraph deleted "Party nominations" from the beginning of the paragraph; added the present first, second and third sentences in the second paragraph, inserted "All candidates" at the beginning of the fourth sentence in the second paragraph, added the

present fifth sentence in the second paragraph; substituted "names of the candidates shall appear alphabetically within their party groups" for "nominations for each party shall be grouped together in a separate row or column, or placed with sufficient space between party groups to indicate them as such" at the end of the last sentence in the second paragraph.

§ 24.2-641. Sample ballot. — The electoral board shall provide for each precinct in which mechanical voting machines or direct electronic voting devices are used, two sample ballots, which shall be arranged as a diagram of the front of the voting device as it will appear with the official ballot for voting on election day. Such sample ballots shall be posted for public inspection at each polling place during the day of election. (Code 1950, § 24-298; 1970, c. 462, § 24.1-208; 1985, c. 458; 1993, c. 641.)

§ 24.2-642. Inoperative equipment. — A. When any voting or counting device becomes inoperative in whole or in part while the polls are open, the officers of election shall immediately notify the electoral board. If possible, the electoral board shall substitute a device in good order for the inoperative device, and at the close of the polls the record of both devices shall be taken, and the votes shown on their counters shall be added together in ascertaining the results of the election.

B. In any precinct that uses a ballot that can be marked without the use of the counting device, if the counting device becomes inoperative and there is no other available counting device, the uncounted ballots shall be placed in a ballot box or compartment which is used exclusively for uncounted ballots. If an operative counting device is available in the polling place after the polls have closed, such uncounted ballots shall be removed from the container and fed into the counting device, one at a time, by an officer of election in the presence of all persons who may be lawfully present at that time but before the votes are determined pursuant to § 24.2-657. If such device is not available, the ballots may be counted manually or as directed by the electoral board.

C. If (i) the inoperative device cannot be repaired in time to continue using it at the election, (ii) a substitute device is needed to conduct the election but is not available for use, (iii) the supply of official paper ballots, or other official ballots that can be cast without use of the inoperative device, is not adequate, and (iv) the local electoral board approves, an officer of election may have copies of the official paper ballot reprinted or reproduced by photographic, electronic, or mechanical processes for use at the election. The voted ballot copies may be received by the officers of election and placed in the ballot box and counted with the votes registered on the voting or counting devices; and the result shall be declared the same as though no device has been inoperative. The voted ballot copies shall be deemed official ballots for the purpose of § 24.2-665 and preserved and returned with the statement of results and with a certificate setting forth how and why the same were voted. The officer of election who had the ballot copies made shall provide a written statement of the number of copies made, signed by him and subject to felony penalties for making false statements pursuant to § 24.2-1016, to be preserved with the unused ballot copies. (Code 1950, § 24-311; 1970, c. 462, § 24.1-221; 1981, c. 570; 1985, c. 458; 1993, c. 641; 2000, c. 282.)

The 2000 amendments. — The 2000 amendment by c. 282 designated the former first paragraph as subsection A, added present subsection B, and designated the former second

paragraph as subsection C and inserted "or other official ballots that can be cast without the use of the inoperative device" in clause C (iii).

ARTICLE 4.

Conduct of Election; Election Results.

§ 24.2-643. Qualified voter permitted to vote; procedures at polling place; voter identification. — A. After the polls are open, each qualified voter at a precinct shall be permitted to vote. The officers of election shall ascertain that a person offering to vote is a qualified voter before admitting him to the voting booth and furnishing an official ballot to him.

B. An officer of election shall ask the voter for his full name and current residence address and repeat, in a voice audible to party and candidate representatives present, the full name and address stated by the voter. The officer shall ask the voter to present any one of the following forms of identification: his Commonwealth of Virginia voter registration card, his social security card, his valid Virginia driver's license, or any other identification card issued by a government agency of the Commonwealth, one of its political

subdivisions, or the United States; or any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business.

If the voter's name is found on the registered voter list, if he presents one of the forms of identification listed above, if he is qualified to vote in the election, and if no objection is made, an officer shall mark the voter's name on the registered voter list; an officer shall enter, opposite the voter's preprinted name on the pollbook, the first or next consecutive number from the voter count form provided by the State Board; an officer shall provide the voter with the official ballot; and another officer shall admit him to the voting booth.

If a voter is entitled to vote except that he is unable to present one of the forms of identification listed above, he shall be allowed to vote after signing a statement, subject to felony penalties for false statements pursuant to § 24.2-1016, that he is the named registered voter who he claims to be.

A voter may be accompanied into the voting booth by his child age fifteen or younger.

C. If the current residence address stated by the voter is different from the address shown on the registered voter list, the officer of election shall furnish the voter with a change of address form prescribed by the State Board. Upon its completion, the voter shall sign the prescribed form, subject to felony penalties for making false statements pursuant to § 24.2-1016, which the officer of election shall then place in an envelope provided for such forms for transmission to the general registrar who shall then transfer or cancel the registration of such voter pursuant to Chapter 4 (§ 24.2-400 et seq.) of this title.

D. At the time the voter is asked his full name and current residence address, the officer of election shall ask any voter for whom an identification number other than a social security number is recorded on the registered voter list if he presently has a social security number and note that number on the list if the voter is able to provide it. Any social security numbers so provided shall be entered by the general registrar in the voter's record on the voter registration system. (Code 1950, §§ 24-244, 24-245, 24-248, 24-252, 24-308; 1952, c. 581; 1962, c. 536; 1964, c. 593; 1970, c. 462, §§ 24.1-125, 24.1-126, 24.1-129, 24.1-218; 1971, Ex. Sess., c. 247; 1973, c. 30; 1975, c. 515; 1978, c. 778; 1981, c. 425; 1982, c. 650, § 24.1-126.1; 1984, c. 234; 1985, cc. 197, 458; 1987, c. 349; 1993, c. 641; 1995, c. 716; 1996, cc. 72, 73; 1999, c. 725; 2000, cc. 366, 451.)

The 1999 amendment inserted "or as authorized by subsection E below" in the second sentence of subsection B and added subsection E.

The 2000 amendments. — The 2000 amendments by cc. 366 and 451 are identical, and in the section catchline, added "voter identification," and in subsection B, rewrote the second sentence, which read: "The officer shall ask any voter, who is subject to the requirement to vote in person pursuant to subsection B of § 24.2-416.1, or as authorized by subsection E below, to present any one of the following forms of identification: his Commonwealth of Virginia voter registration card, his social security card, any preprinted form of identification which shows his name and address, any preprinted form of identification which shows his name and signature, or any preprinted form of identification which shows his name and photograph," inserted "if he presents one of the forms

of identification listed above" in the first paragraph, deleted "who is subject to the requirement to vote in person pursuant to subsection B of § 24.2-416.1" preceding "is entitled," and deleted subsection E, which read: "The Board is authorized to conduct a pilot project requiring mandatory voter identification at the polling place, in up to ten jurisdictions, if agreed to by the jurisdiction's local electoral board. Proper voter identification includes a Virginia voter identification card, social security card, or any preprinted form of identification with the voter's name and address, preprinted form of identification with name and signature, or preprinted form of identification with name and photo. Additionally, if a voter is entitled to vote, except that he fails to present one of the forms of identification listed above, he shall be allowed to vote, by signing a statement, subject to felony penalties for false statements pursu-

ant to § 24.2-1016, that he is the named registered voter he claims to be.”

§ 24.2-644. Voting by paper ballot; voting for presidential electors; write-in votes. — A. The qualified voter shall take the official paper ballot and enter the voting booth. After entering the voting booth, the qualified voter shall mark immediately preceding the name of each candidate for whom he wishes to vote a check (✓) or a cross (X or +) or a line (-) in the square provided for such purpose, leaving unmarked the square preceding the name of each candidate for whom he does not wish to vote. Any ballot marked so that the intent of the voter is clear shall be counted.

B. The qualified voter at a presidential election shall mark the square preceding the names and party designation for his choice of candidates for President and Vice-President. His ballot so marked shall be counted as if he had marked squares preceding the names of the individual electors affiliated with his choice for President and Vice-President. The qualified voter at a presidential election may cast a write-in vote for President and Vice-President as provided in subsections C and D of this section.

C. At all elections except primary elections it shall be lawful for any voter to vote for any person other than the listed candidates for the office by writing or hand printing the person's name on the official ballot. No check or other mark shall be required to cast a valid write-in vote. Write-in votes for President and Vice-President shall be counted only for candidates who have filed a joint declaration of intent to be write-in candidates for the offices with the Secretary of the State Board not less than ten days before the date of the presidential election. The declaration of intent shall be on a form prescribed by the State Board and shall include a list of presidential electors pledged to those candidates which equals the whole number of senators and representatives to which the Commonwealth at that time is entitled in the Congress of the United States. A write-in vote cast for candidates for President and Vice-President, or for a candidate for President only, shall be counted for the individual electors listed on the declaration of intent as pledged to those candidates.

D. No write-in vote shall be counted unless the name is entered on the ballot in conformance with this section. No write-in vote shall be counted when it is apparent to the officers of election that a voter has voted for the same person for the same office more than one time. No write-in vote shall be counted for an office for any person whose name appears on the ballot as a candidate for that office. If two or more persons are to be elected to the same office, a voter may vote for one or more persons whose names do appear on the ballot and one or more persons whose names do not appear on the ballot, provided that the total number of votes cast by him for that office does not exceed the number of persons to be elected to that office. (Code 1950, §§ 24-245, 24-252, 24-290.5, 24-307; 1952, c. 581; 1962, cc. 260, 536; 1964, c. 593; 1970, c. 462, §§ 24.1-129, 24.1-161, 24.1-217; 1973, c. 30; 1975, c. 515; 1984, c. 234; 1985, cc. 197, 458; 1987, c. 349; 1990, c. 214; 1993, c. 641; 1997, c. 100.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-645. Defaced paper ballots. — If any paper ballot is unintentionally or accidentally defaced and rendered unfit for voting, the voter may deliver the defaced ballot to the officer of election and receive another. The returned ballot shall be marked spoiled by the officer of election and placed in the spoiled ballot envelope. (Code 1950, § 24-238; 1970, c. 462, § 24.1-130; 1987, c. 349; 1993, c. 641.)

§ 24.2-646. Voter folds paper ballot and hands same to officer who deposits it unopened in box. — The qualified voter shall fold each ballot with the names of the candidates and questions on the inside and hand the folded ballot to the appropriate officer of election. The officer shall place the ballot in the ballot box without any inspection except to assure himself that only a single ballot has been tendered and that the ballot is a genuine ballot. Without looking at the printed inside of the ballot, the officer may inspect the official seal on the back of the ballot to determine if it is genuine. (Code 1950, § 24-247; 1970, c. 462, § 24.1-131; 1993, c. 641.)

§ 24.2-647. Voting equipment; demonstration on election day. — The electoral board shall provide at each polling place on election day, for the voting device in use, a model of, or materials displaying, a portion of its ballot face. The model or materials shall be located on the table of one of the officers or in some other place accessible to the voters. An officer of election shall instruct any voter, who requests instruction before voting, on the proper manner of voting. The officer may direct the voter's attention to sample ballots so that the voter may become familiar with the location of questions and names of offices and candidates.

For equipment using ballots inserted in electronic counting devices, an officer of election, using a demonstration ballot and equipment, shall show each voter who requests, immediately on entry to the polling place, the manner in which the ballot is to be voted.

If any voter, after entering the voting booth, asks for further instructions concerning the manner of voting, two of the officers, from different political parties shall give such instructions to him, but no officer shall in any manner request, or seek to persuade or induce any such voter to vote for or against any particular ticket, candidate, or question. After giving such instructions and before the voter votes, the officers shall leave the voting booth, and the voter shall cast his ballot in secret. (Code 1950, § 24-309; 1970, c. 462, § 24.1-219; 1980, c. 639; 1985, c. 458; 1993, c. 641.)

§ 24.2-648. Write-in votes on voting equipment. — Write-in votes may be cast on voting equipment for any person whose name does not appear on the ballot as a candidate for the office being voted, subject to this section and the provisions of § 24.2-644 not in conflict with this section.

Each write-in vote shall be entered in the receptacle or area designated on the device for the office being elected. A write-in vote shall be cast in its appropriate place, in accordance with the instructions for that equipment, or it shall be void and not counted.

Except on devices which provide a means to enter a name electronically, each write-in vote shall be entered by the voter in his own handwriting or hand printing. (Code 1950, § 24-307; 1962, c. 260; 1970, c. 462, § 24.1-217; 1975, c. 515; 1985, c. 458; 1990, c. 214; 1993, c. 641; 1996, c. 5.)

§ 24.2-649. Assistance for certain voters. — A. Any voter age 65 or older or physically disabled may request and then shall be handed a paper ballot by an officer of election outside the polling place but within 150 feet of the entrance to the polling place. The voter shall mark the ballot in the officer's presence but in a secret manner and fold and return the ballot to the officer. The officer shall immediately return to the polling place and deposit the ballot in the ballot box in accordance with § 24.2-646.

B. Any qualified voter, who requires assistance to vote by reason of physical disability or inability to read or write, may, if he so requests, be assisted in voting. If he is blind, he may designate an officer of election or any other person to assist him. If he is unable to read and write or disabled for any cause other

than blindness, he may designate an officer of election or some other person to assist him other than the voter's employer or agent of that employer, or officer or agent of the voter's union.

The officer of election or other person so designated shall not enter the booth with the voter unless (i) the voter signs a request stating that he requires assistance by reason of physical disability or inability to read or write and (ii) the officer of election or other person signs a statement that he is not the voter's employer or an agent of that employer, or an officer or agent of the voter's union, and that he will act in accordance with the requirements of this section. The request and statement shall be on a single form furnished by the State Board. If the voter is unable to sign the request, his own mark acknowledged by him before an officer of election shall be sufficient signature. If the voter being assisted is blind, neither the request nor the statement shall be required to be signed and an officer of election shall advise the voter and person assisting the voter of the requirements of this section and record the name of the voter and the name and address of the person assisting him.

The officer of election or other person so designated shall assist the qualified voter in the preparation of his ballot in accordance with his instructions and without soliciting his vote or in any manner attempting to influence his vote and shall not in any manner divulge or indicate, by signs or otherwise, how the voter voted on any office or question.

A person who willfully violates this subsection shall be guilty of a Class 1 misdemeanor. In addition, the provisions of § 24.2-1016 and its felony penalties for false statements shall be applicable to any request or statement signed pursuant to this section. (Code 1950, §§ 24-245, 24-251, 24-252, 24-310; 1950, c. 230; 1952, c. 581; 1962, c. 536; 1964, c. 593; 1969, Ex. Sess., c. 5; 1970, c. 462, §§ 24.1-129, 24.1-132, 24.1-220; 1973, c. 30; 1975, c. 515; 1978, c. 778; 1984, cc. 234, 775; 1985, cc. 197, 458; 1986, c. 558; 1987, c. 349; 1988, c. 598; 1993, c. 641.)

Cross references. — As to punishment for Class 1 misdemeanors, see § 18.2-11.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

Bulletin issued by State Board of Elections to all election judges, instructing that the election judge could aid any qualified voter in the preparation of his ballot if the voter so

requests and if the voter is unable to mark his ballot due to illiteracy, outlined new procedures for casting write-in votes and must meet the approval requirements of § 5 of the Federal Voting Rights Act of 1965 (42 U.S.C. § 1973). *Allen v. State Bd. of Elections*, 393 U.S. 544, 89 S. Ct. 817, 22 L. Ed. 2d 1 (1969) (decided under prior law).

§ 24.2-650. Officers to sign only official papers, etc. — No officer of election shall sign or otherwise mark any paper, form, or item, other than one furnished by the State Board, his electoral board, or general registrar, at his polling place during the hours that the polls are open. (1976, c. 616, § 24.1-132.1; 1993, c. 641.)

§ 24.2-651. Voter who is challenged; how challenge tried. — Any qualified voter may, and the officers of election shall, challenge the vote of any person who is listed on the precinct registered voter list but is known or suspected not to be a qualified voter.

When any person is challenged, an officer shall explain to him the qualifications of a voter and may examine him concerning his qualifications.

The officers of election are hereby authorized to administer the necessary oath or affirmation to any witness brought before them to testify as to the qualifications of any person offering to vote.

If the person being challenged insists that he is qualified and the challenge is not withdrawn, one of the officers shall give him a form containing the following statement:

"I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that I am a citizen of the United States, that I am at least eighteen years of age (or will be on the day of,) that I am a resident of the Commonwealth of Virginia (or that I have been a resident of this Commonwealth within the preceding thirty days and am voting only for electors of President and Vice-President of the United States), and that, according to the best of my knowledge, information and belief, I am not disqualified from voting by the Constitution and laws of this Commonwealth; that my full name is; that in such name I was duly registered as a voter of this precinct; that I am now or at some time since the last November general election have been an actual resident of this precinct or that I have been an actual resident of this precinct at some time since the second preceding general federal election and have been and continue to be a resident of this county or city and this congressional district; that I am the identical person I represent myself to be; and that I have not voted in this election at this or any voting place and will not vote in this election at any other voting place."

If the person challenged refuses to sign the statement, he shall not be permitted to vote. If, however, he signs the statement, he shall be permitted to vote on the voting system in use at the precinct.

When the voter has signed the statement and is permitted to vote, the officers of election shall indicate on the pollbook, after the name of such person, that he has signed the required statement.

If the envelope containing a voted absentee ballot has been properly signed by the voter, such ballot shall not be subject to challenge pursuant to this section. (Code 1950, §§ 24-253, 24-254, 24-325; 1970, c. 462, § 24.1-133; 1971, Ex. Sess., c. 265; 1972, c. 620; 1977, c. 490; 1978, c. 778; 1980, c. 639; 1981, c. 425; 1983, c. 461; 1993, c. 641; 1997, c. 346.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

The term "actual resident," formerly used in former § 24.1-133, was never given the strict literal meaning of actual bodily residence in the popular sense. *Bruner v. Bunting*, 15 Va. L. Reg. 514 (1909) (decided under prior law).

When officers of election may reject bal-

lot. — Before the officers of election can reject a ballot, they must administer the oath prescribed by former § 24.1-133, and, even after administering such oath, they cannot reject it except upon record, legal proof, or their own personal knowledge of the voter's incompetency. *United States v. Small*, 38 F. 103 (C.C.E.D. Va. 1889) (decided under prior law).

§ 24.2-651.1. Voter who is shown as having already voted; challenge and procedure for voting; voter identification. — The officers of election shall challenge the vote of any person who offers to vote, who is listed on the precinct registered voter list, and whose name is marked to indicate that he has already voted in person in the election.

When the person is challenged, an officer shall explain to him the basis for the challenge. If the person being challenged states that he has not voted and is qualified, an officer shall ask the voter to present one of the following forms of identification: his Commonwealth of Virginia voter registration card, his social security card, his valid Virginia driver's license, or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; or any valid employee identification card containing a photograph of the voter and issued by an employer of the voter in the ordinary course of the employer's business.

If the person presents the requested form of identification showing him to be the person listed on the precinct registered voter list, an officer of election shall

give him the form set out in § 24.2-651 for the person to sign subject to felony penalties for making false statements pursuant to § 24.2-1016.

If the person challenged refuses to sign the statement, he shall not be permitted to vote. If, however, he signs the statement, he shall be permitted to vote on the voting system in use at the precinct.

When the voter has shown the requested identification, has signed the statement, and is permitted to vote, the officers of election shall mark the precinct registered voter lists and shall indicate that the person has signed the required statement in accordance with the instructions of the State Board of Elections. (1997, c. 915; 2000, cc. 366, 451.)

The 2000 amendments. — The 2000 amendments by cc. 366 and 451 are identical, and substituted “his valid Virginia driver’s license, or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States; or any valid employee identification card containing a photograph of the voter and

issued by an employer of the voter in the ordinary course of the employer’s business” for “any preprinted form of identification which shows his name and address, any preprinted form of identification which shows his name and signature, or any preprinted form of identification which shows his name and photograph” in the second paragraph.

§ 24.2-652. Voter whose name erroneously omitted from precinct registered voter list. — When a person offers to vote and his name does not appear on the precinct registered voter list, the officers of election shall permit him to vote only if all of the following conditions are met:

1. An officer of election is informed by the general registrar that the voter is registered to vote, that his registration has not been cancelled, and that his name is erroneously omitted from the precinct registered voter list.

2. The voter signs a statement, subject to felony penalties for false statements pursuant to § 24.2-1016, that he is a qualified and registered voter of that precinct, a resident of that precinct, and his registration is not subject to cancellation pursuant to §§ 24.2-430, 24.2-431, and 24.2-432; and he provides, subject to such penalties, all the information required to identify himself including social security number, if any, full name including the maiden or any other prior legal name, birthdate, and complete address.

3. The officer of election enters the identifying information for the voter on the precinct registered voter list.

When the voter has signed the statement and is permitted to vote, the officers of election shall indicate on the pollbook, after the name of such person, that he has signed the required statement. (Code 1950, § 24-95; 1970, c. 462, § 24.1-55; 1974, c. 428; 1975, c. 515; 1981, c. 425; 1984, c. 480; 1993, c. 641.)

§ 24.2-653. Voter whose name does not appear on precinct registered voter list. — A. When a person offers to vote pursuant to § 24.2-652 and the general registrar is not available or cannot state that the person is registered to vote, then such person shall be allowed to vote by paper ballot in the manner provided in this section.

Such person shall be given a paper ballot and provide, subject to the penalties for making false statements pursuant to § 24.2-1016, on a green envelope supplied by the State Board, the identifying information required in § 24.2-652. The officers of election shall enter the appropriate information for the person on the precinct registered voter list but not mark his name as having voted nor enter it on the precinct pollbook.

The voter shall then, in the presence of an officer of election, but in a secret manner, mark the ballot as provided in § 24.2-644 and seal it in the green envelope. The envelope containing the ballot shall then be placed in the ballot box by an officer of election.

An officer of election shall inform the voter that a determination of his right to vote shall be made by the electoral board on the following day and advise the voter of the beginning time and place for the board's meeting.

B. The votes cast pursuant to subsection A, in their unopened envelopes, shall be sealed in a special envelope marked "Conditional Votes," inscribed with the number of envelopes contained therein, and signed by the officers of election who counted them. All conditional votes envelopes shall be delivered either (i) to the clerk of the circuit court who shall deliver all such envelopes to the secretary of the electoral board or (ii) to the general registrar in localities in which the electoral board has directed delivery of election materials to the general registrar pursuant to § 24.2-668.

The electoral board shall meet on the day following the election and determine whether each person having cast such a ballot was entitled to do so. One authorized representative of each political party or independent candidate in a general election or one authorized representative of each candidate in a primary or special election, who is a qualified voter of the city or county, shall be permitted to remain in the room in which the determination is being made so long as he does not impede the orderly conduct of the determination.

If the electoral board determines that such person was not entitled to vote, or is unable to determine his right to vote, the envelope containing his ballot shall not be opened and his vote shall not be counted. The general registrar shall notify in writing pursuant to § 24.2-114 those persons found not properly registered.

If the electoral board determines that such person was entitled to vote, the precinct registered voter list shall be so marked, the name of the voter shall be entered in a conditional votes pollbook, the envelope shall be opened, and the ballot placed in a ballot box without any inspection further than that provided for in § 24.2-646.

On completion of its determination, the electoral board shall proceed to count such ballots and certify the results of its count. Its certified results shall be added to those found pursuant to § 24.2-671. No adjustment shall be made to the statement of results for the precinct in which the person offered to vote.

The certification of the results of the count together with all ballots and envelopes, whether open or unopened, and other related material shall be delivered by the electoral board to the clerk of the circuit court and retained by him as provided for in §§ 24.2-668 and 24.2-669. (1975, c. 515, §§ 24.1-55.1, 24.1-55.2; 1982, c. 650; 1993, c. 641; 1996, c. 8; 1997, cc. 438, 456.)

§ 24.2-654. Officers to lock and seal voting equipment and ascertain vote after polls closed; statement of results. — As soon as the polls are closed, the officers of election shall lock each voting and counting device against further voting. They shall then proceed to ascertain the vote given at the election and continue without adjournment until they declare the results of the election. They shall seal the devices.

In ascertaining the vote, the officers of election shall complete a statement of results in duplicate on the form and in the manner prescribed by the State Board. (Code 1950, § 24-258, 24-259, 24-312; 1966, c. 453; 1970, c. 462, §§ 24.1-136, 24.1-222; 1974, c. 428; 1979, c. 329; 1981, c. 425; 1983, c. 461; 1985, c. 458; 1993, c. 641.)

Officers of election have no authority to make any agreement for other persons to determine the validity of ballots. The duty to

cavass the vote is plainly theirs under former § 24.1-136. Hall v. Stuart, 198 Va. 315, 94 S.E.2d 284 (1956) (decided under prior law).

§ 24.2-655. Representatives of political parties and candidates to be present on request. — Before proceeding to ascertain the vote, the officers of

election shall determine whether no more than two representatives of each political party having candidates in the election and one representative of each independent candidate or primary candidate request to be present while the absentee ballots are cast, votes are counted, and returns are completed.

Each representative shall be a qualified voter of the city or county in which the polling place is located and shall present to the officers of election a written statement certifying that he is an authorized representative, signed by his party chairman for the jurisdiction in which the election is held, the independent candidate, or the candidate in a primary, as appropriate. Such representatives shall be entitled to be present while the votes are counted and shall remain until the returns are completed.

In case such representatives, or any of them, do not request to be present, the officers shall notify the bystanders, if any, and select one or more to be present with any available representatives of the parties or candidates so that there are as many as four bystanders and representatives present. (Code 1950, §§ 24-260, 24-261; 1970, c. 462, § 24.1-137; 1974, c. 428; 1993, c. 641.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-656. Officers to sign pollbooks. — As soon as the last absentee ballot, if any, is cast, the officers of election shall write on the pollbook, in accordance with their instructions, the words "Polls Closed," the date of the election, and the time of their endorsement. They shall sign the pollbook immediately following their endorsement and proceed to ascertain the vote. (Code 1950, § 24-257; 1970, c. 462, § 24.1-135; 1971, Ex. Sess., c. 119; 1976, c. 616; 1980, c. 639; 1981, c. 425; 1993, c. 641; 1994, c. 321.)

§ 24.2-657. Determination of vote on voting equipment. — In the presence of all persons who may be present lawfully at the time, giving full view of the voting equipment and counters or printed return sheets, the officers of election shall determine and announce the results as shown by the counters or printed return sheets, including the votes recorded for each office on the write-in ballots, and shall also announce the vote on every question. The vote as registered shall be entered on the statement of results. When completed, the statement shall be compared with the number on the counters on the equipment or on the printed return sheets. If, on all mechanical or direct electronic voting devices, the number of persons voting in the election, or the number of votes cast for any office or on any question, totals more than the number of names on the pollbooks of persons voting on the devices, then the figures recorded by the devices shall be accepted as correct. A statement to that effect shall be entered by the officers of election in the space provided on the statement of results. (Code 1950, § 24-312; 1966, c. 453; 1970, c. 462, § 24.1-222; 1974, c. 428; 1979, c. 329; 1981, c. 425; 1983, c. 461; 1985, c. 458; 1993, c. 641.)

§ 24.2-658. Devices with printed return sheets; disposition of sheets. — If devices that print returns are used, the printed inspection sheet and two copies of the printed return sheet containing the results of the election for each device shall be inserted in the envelope containing the pollbooks by the officers of election and sealed and returned as required by § 24.2-668.

The printed inspection sheets and one copy of the printed return sheets shall be kept with the pollbooks and preserved as provided in § 24.2-669.

One copy of the printed return sheets shall be made available by the clerk of the circuit court on the day following the election and for sixty additional days

for inspection and transcribing information therefrom by the public. (1981, c. 425, § 24.1-222.1; 1985, c. 458; 1993, c. 641.)

§ 24.2-659. Locking voting and counting devices after election and delivering keys to clerk; printed returns as evidence. — A. After the officers of election lock and seal each voting and counting device, the equipment keys shall be enclosed in an envelope which shall be sealed and have endorsed thereon a certificate of an officer of election stating the election precinct, the number of each device, the number on the seal, and the number of the protective counter, if one, on the device. The sealed envelope shall be delivered by one of the officers of the election to the clerk of the circuit court where the election was held. The custodians of the voting equipment shall enclose and seal in an envelope, properly endorsed, all other keys to all voting equipment in their jurisdictions and deliver the envelope to the clerk of the circuit court by noon on the day following the election.

The voting and counting devices shall remain locked and sealed for the period of fifteen days after the results of the election have been ascertained and, if any contest or recount is pending thereafter, until it has been concluded. The devices shall be opened and all data examined only (i) on the order of a court of competent jurisdiction or (ii) on the request of an authorized representative of the State Board or the electoral board at the direction of the State Board in order to ensure the accuracy of the returns.

When recounts occur in precincts using mechanical or direct electronic voting devices with printed return sheets, the printed return sheets delivered to the clerk may be used as the official evidence of the results.

When the required time has expired, the clerk of the circuit court shall return all voting equipment keys to the electoral board.

B. The local electoral board may direct that the officers of election and custodians, in lieu of conveying the sealed equipment keys to the clerk of the circuit court as provided in subsection A of this section, shall convey them to the principal office of the general registrar on the night of the election. The general registrar shall secure and retain the sealed equipment keys in his office and shall convey them to the clerk of the court by noon of the day following the election. (Code 1950, § 24-314; 1962, c. 230; 1966, c. 453; 1970, c. 462, § 24.1-224; 1974, c. 428; 1978, c. 778; 1985, c. 458; 1993, c. 641; 1995, c. 197.)

§ 24.2-660. Devices with memory cartridges. — If a direct electronic voting device retains in its internal memory at least two sets of the results of any election, its memory cartridge shall be removed and delivered under seal to the electoral board of the county or city not later than noon on the day following the election. The electoral board may use the memory cartridges from all precincts for tallying the vote totals for the jurisdiction immediately after the election and in ascertaining the results of the election. The memory cartridge shall not thereafter be subject to the security requirements of § 24.2-659 so long as the results of the election are otherwise retained and secured within the machine or device. (1992, c. 340, § 24.1-222.2; 1993, c. 641.)

§ 24.2-661. Detection and setting aside of double ballots. — After the votes on all voting and counting equipment have been determined and recorded, the officers of election shall proceed to examine and count the paper ballots to ascertain if any double ballots have been cast, and whether the number of ballots corresponds with the number of names on the pollbooks of persons who voted on paper ballots. If two or more separate ballots are found so folded together as to represent the appearance of a single ballot they shall be laid aside until the count of the ballots is completed. If, upon a comparison

of the count and the number of names of such qualified voters on the pollbooks, it appears that the two or more ballots thus folded together were cast by the same qualified voter, they shall be set aside and not counted. (Code 1950, §§ 24-262, 24-313; 1970, c. 462, §§ 24.1-138, 24.1-223; 1983, c. 461; 1985, c. 458; 1993, c. 641.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-662. Procedure when paper ballots exceed names on pollbooks. — If the ballots in the box exceed the number of names on the pollbooks of persons who voted on paper ballots, all ballots shall be replaced in the ballot box. Then, after the box is well shaken, an officer of election, being blindfolded, shall withdraw a sufficient number of ballots to reduce the number of ballots left in the box to the number of such names on the pollbooks. The drawn ballots shall be set aside and not counted. (Code 1950, § 24-263; 1970, c. 462, § 24.1-139; 1983, c. 461; 1993, c. 641.)

§ 24.2-663. When ballot void. — If a ballot is found to have been voted for a greater number of names for any one office than the number of persons required to fill the office, or if the title of the office is erased, the ballot shall be considered void as to all the names designated to fill such office, but no further. No ballot shall be void for having been voted for fewer names than authorized.

If any person votes, either in person or absentee, more than one time in an election, all ballots received from such person shall be void and, if possible, not counted. If one such ballot has already been cast, any additional ballots received from such person shall be void and not counted. (Code 1950, § 24-266; 1970, c. 462, § 24.1-140; 1978, c. 778; 1993, c. 641.)

§ 24.2-664. Reduction in number of ballots. — Whenever the number of ballots is reduced by fraudulent or void ballots below the number of names of qualified voters on the pollbooks who voted on paper ballots, the cause of such reduction shall be stated in the space provided on the statement of results. (Code 1950, § 24-624; 1970, c. 462, § 24.1-141; 1981, c. 425; 1983, c. 461; 1993, c. 641.)

§ 24.2-665. How paper ballots counted. — A. When the number of paper ballots to be counted has been verified, the officers shall proceed to ascertain the number of votes cast by paper ballots for each person and for and against each question. The votes on all ballots for all offices and questions shall be counted. As soon as all ballots are counted, they shall be placed in an envelope or container labeled "counted ballots." No person other than the officers of the election shall handle the ballots.

B. Only an official ballot prepared as provided for in this title shall be counted. If any unofficial ballot is found among the official ballots, the unofficial ballot shall be put aside, not counted and appropriately noted on the statement of results. (Code 1950, §§ 24-246, 24-265; 1950, p. 165; 1970, c. 462, § 24.1-142; 1981, c. 425; 1993, c. 641.)

Cross references. — For constitutional provision forbidding canvassing or counting votes in secret, see Va. Const., Art. II, § 3.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

Former § 24.1-142 was mandatory. — Former § 24.1-142 made it mandatory upon the officers of election, or upon the courts where the questions were properly raised by the pleadings, not to count any ballot which was not an official ballot. *Steele v. Trehy*, 20 Va. L.

Reg. 116 (1914). See *In re Local Option Election*, 19 Va. L. Reg. 746 (1913) (decided under prior law).

§ 24.2-666. Procedures to account for paper ballots. — The State Board shall prescribe appropriate forms and procedures for use by the local electoral boards, general registrars, and officers of election to account for all paper ballots, used and unused. (1988, cc. 291, 318, § 24.1-143.1; 1993, c. 641.)

§ 24.2-667. Completion of statement of results. — At the conclusion of determining the votes cast on voting devices and paper ballots, the officers of election shall verify that all required data has been accurately entered, sign both copies of the statement of results, and affirm that the statement is complete and the information thereon is true and correct. (Code 1950, §§ 24-246, 24-265, 24-312; 1950, p. 165; 1966, c. 453; 1970, c. 462, §§ 24.1-142, 24.1-222; 1974, c. 428; 1979, c. 329; 1981, c. 425; 1983, c. 461; 1985, c. 458; 1993, c. 641.)

§ 24.2-668. Pollbooks, statements of results, and ballots to be sealed and delivered to clerk or general registrar. — A. After ascertaining the results and before adjourning, the officers shall put the pollbooks, the duplicate statements of results, and any printed inspection and return sheets in the envelopes provided by the State Board. The officers shall seal the envelopes and direct them to the clerk of the circuit court for the county or city. The pollbooks, statements, and sheets thus sealed and directed, the sealed counted ballots envelope or container, and the unused, defaced, spoiled and set aside ballots properly accounted for, packaged and sealed, shall be conveyed by one of the officers to be determined by lot, if they cannot otherwise agree, to the clerk of court by noon on the day following the election.

The clerk shall retain custody of the pollbooks until the time has expired for initiating a recount, contest, or other proceeding in which the pollbooks may be needed as evidence and there is no proceeding pending. After that time the clerk shall deliver the pollbooks to the general registrar who shall preserve them for five years from the date of the election. The clerk shall retain the statement of results and any printed inspection and return sheets for two years and may then destroy them.

B. The local electoral board may direct that the officers of election, in lieu of conveying the materials to the clerk of the circuit court as provided in subsection A of this section, shall convey the materials to the principal office of the general registrar on the night of the election. The general registrar shall secure and retain the materials in his office and shall convey to the clerk of the court by noon of the day following the election all of the election materials, except the envelopes containing the "Conditional Votes," and the envelopes containing the pollbooks, the statements of results and, if mechanical voting machines are used, one copy of the printed return sheet from each machine. Following the ascertainment of the results of the election by the electoral board, the general registrar shall retain for public inspection one copy of the statement of results and shall immediately convey to the clerk sealed envelopes containing all remaining election materials. (Code 1950, §§ 24-232, 24-267, 24-268, 24-270; 1970, c. 462, §§ 24.1-143, 24.1-144; 1971, Ex. Sess., c. 247; 1972, c. 620; 1973, c. 30; 1975, c. 515; 1978, c. 778; 1981, c. 425; 1992, c. 293; 1993, c. 641; 1995, c. 197; 1996, c. 8; 1997, cc. 438, 456.)

Mandamus lies to compel clerk to allow inspection. — Mandamus will lie to compel a clerk, who is the custodian of the pollbooks

after an election, to permit a party interested to inspect them, and to take therefrom, at and within a reasonable time and in the presence of

the clerk, such memoranda and notes as are proper to be made. *Keller v. Stone*, 96 Va. 667, 32 S.E. 454 (1899) (decided under prior law).

§ 24.2-669. Clerk to keep ballots; inspection; destruction. — The clerk to whom the counted and uncounted ballots are delivered shall, without breaking the seal, deposit them in a secure place in his office, where they shall be kept for the time required by this section. He shall not allow the ballots to be inspected except (i) by an authorized representative of the State Board or by the electoral board at the direction of the State Board to ensure the accuracy of the returns or the purity of the election, (ii) by the officers of election, and then only at the direction of the electoral board in accordance with § 24.2-672 when the provisions of § 24.2-662 have not been followed, or (iii) on the order of a court before which there is pending a proceeding for a contest or recount under Chapter 8 (§ 24.2-800 et seq.) of this title or before whom there is then pending a proceeding in which the ballots are necessary for use in evidence.

After the counted ballots for a federal election have remained in the clerk's office for two years, if no election contest or other proceeding is pending in which such ballots may be needed as evidence, the clerk shall destroy such ballots. After the counted ballots for any other election have remained in the clerk's office for one year, if no election contest or other proceeding is pending in which such ballots may be needed as evidence, the clerk shall destroy such ballots. After the unused ballots have remained in the clerk's office and the time has expired for initiating a recount, contest, or other proceeding in which such ballots may be needed as evidence and no such contest or proceeding is pending, the clerk may then destroy the unused ballots. (Code 1950, §§ 24-268, 24-270; 1970, c. 462, § 24.1-144; 1973, c. 30; 1975, c. 515; 1978, c. 778; 1981, c. 425; 1992, c. 293; 1993, c. 641; 1998, c. 270.)

§ 24.2-670. Clerk to send for books and ballots if not delivered by officers. — If the officers of election fail to deliver the materials to the clerk of the circuit court, or to the principal office of the general registrar, as required by § 24.2-668 before the time for the electoral board to meet and open the returns, the clerk of the circuit court shall dispatch, to obtain such returns, a law-enforcement officer, who shall be subject to the same penalties and entitled to the same compensation as an officer of election for such service. (Code 1950, § 24-269; 1970, c. 462, § 24.1-145; 1993, c. 641; 1995, c. 197.)

§ 24.2-671. Electoral board to meet and ascertain results; conclusiveness of results. — Each electoral board shall meet at the clerk's office of the county or city for which they are appointed at or before 5:00 p.m. on the day after any election. The board may adjourn to the principal office of the general registrar. It shall open the returns delivered to the clerk's office by the officers.

If the electoral board has exercised the option provided by § 24.2-668 for delivery of the election materials to the office of the general registrar on the night of the election, the electoral board shall meet at the office of the general registrar at or before 5:00 p.m. on the day after any election.

The board shall ascertain from the returns the total votes in the county or city, or town in a town election, for each candidate and for and against each question and complete the abstract of votes cast at such election, as provided for in § 24.2-675. For any office for which the total number of write-in votes for that office is less than (i) five percent of the total number of votes cast for that office and (ii) the total number of votes cast for the candidate receiving the most votes, the electoral board shall ascertain the total votes for each write-in candidate for the office within one week following the election. For offices for which the electoral board issues the certificate of election, the result so

ascertained, signed and attested, shall be conclusive and shall not thereafter be subject to challenge except as specifically provided in Chapter 8 (§ 24.2-800 et seq.) of this title.

Once the result is so ascertained, the secretary of the electoral board shall deliver one copy of each statement of results to the general registrar to be available for inspection when his office is open for business. The secretary shall then return all pollbooks, any printed inspection and return sheets, and one copy of each statement of results to the clerk. (Code 1950, §§ 24-271, 24-272; 1970, c. 462, § 24.1-146; 1973, c. 30; 1981, c. 425; 1991, c. 388; 1992, c. 329; 1993, c. 641; 1996, cc. 8, 223.)

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

Provision as to time of canvass is directory. — See *Gregory v. Hubbard*, 123 Va. 510, 96 S.E. 775 (1918) (decided under prior law).

§ 24.2-672. Electoral board to correct irregularities in returns of officers of election. — While ascertaining the results of an election, the electoral board may find that there are irregularities or informalities in the returns of the officers of election which can be cured by amending or correcting the returns. Then the board immediately shall summon, to appear before the board on the date of the summons or the next date thereafter, the officers of elections required to amend the returns so that the same may conform to the law. The summons may be executed by any person authorized by law to serve summonses for witnesses. (Code 1950, § 24-275; 1970, c. 462, § 24.1-147; 1992, c. 329; 1993, c. 641.)

§ 24.2-673. Candidates having highest number of votes to receive certificate of election. — Except in the case of a recount pursuant to the provisions of Chapter 8 (§ 24.2-800 et seq.) of this title, in all elections for the choice of any officer, unless it is otherwise expressly provided, the person having the highest number of votes for any office shall be deemed to have been elected to such office and shall receive the certificate of election. (Code 1950, § 24-276; 1970, c. 462, § 24.1-148; 1993, c. 641.)

§ 24.2-674. Determination by lot in case of tie. — If two or more persons have an equal number of votes for any county, city, town, or district office, and a higher number than any other person, the electoral board shall proceed publicly to determine by lot which of the candidates shall be declared elected.

If any two or more persons have an equal number of votes and a higher number than any other person for member of the General Assembly or of the Congress of the United States, or elector of President and Vice-President of the United States, the State Board of Elections shall proceed publicly to determine by lot which of them shall be declared elected. Reasonable notice shall be given to such candidates of the time when such elections shall be so determined; and if they, or either of them, shall fail to appear in accordance with such notice, the Board shall proceed so as to determine the election in their absence.

Any person who loses the determination by lot may petition for a recount pursuant to Article 1 (§ 24.2-800 et seq.) of Chapter 8 of this title. (Code 1950, §§ 24-277, 24-290; 1970, c. 462, § 24.1-149; 1993, c. 641.)

Clerk's office is a public place. — A meeting of the electoral board to break a tie held in the clerk's office was held in a public place, and it was nonetheless public because no one was

present except the board, the deputy clerk and counsel for the persons elected. *Gregory v. Hubbard*, 123 Va. 510, 96 S.E. 775 (1918) (decided under prior law).

§ 24.2-675. Abstracts of votes to be made by secretary and forwarded to State Board and to clerks. — As soon as the electoral board determines the persons who have received the highest number of votes for any office, the secretary shall make out an abstract of the votes for each of the following: Governor; Lieutenant Governor; Attorney General; members of the Senate of Virginia; members of the House of Delegates; members of the United States Senate; members of the United States House of Representatives; electors of the President and Vice-President of the United States; each county office; each city office; each district office; each town office; and such others as may be required for statewide referenda. The abstracts shall contain the names of all persons receiving any vote for each office and the total number of votes received by each person or for or against each question. However, if the total number of write-in votes for any office is less than (i) five percent of the total number of votes cast for that office and (ii) the total number of votes cast for the candidate receiving the most votes, the abstract shall contain only the total number of write-in votes and not the number of write-in votes for each person receiving write-in votes.

The abstracts shall be certified and signed by the electoral board, attested by the secretary, and retained by the electoral board as part of its records. A copy of each, certified under the official seal of the electoral board, shall immediately be mailed or delivered by hand to the State Board. The State Board shall require the electoral board of any county or city to correct any errors found on such abstracts prior to completing the requirements of § 24.2-679.

One certified copy of each abstract of votes shall be forwarded (i) to the clerk of the city council or board of supervisors and recorded in its record book, (ii) for town elections, to the clerk of the town council and recorded in its minute book, and (iii) for each local referendum, to the circuit court for the locality. (Code 1950, §§ 24-278 through 24-280; 1970, c. 462, § 24.1-150; 1972, c. 620; 1975, c. 515; 1976, c. 616; 1981, c. 425; 1993, c. 641; 1996, c. 223.)

§ 24.2-676. Secretary to make out and deliver certificate of election. — Immediately after the electoral board has determined the election results, the secretary shall make out certificates of election for each county, city, town, or district office other than an office shared by more than one county or city, or any combination thereof. The secretary shall make out the certificate for each of the persons who has the highest number of votes for the office, who has sufficient votes to be elected to a multi-member office, or, in case of a tie, who has been decided by lot to be elected. The secretary, or another board member or registrar designated by the secretary, shall deliver in person or the secretary shall transmit by certified mail the certificate to the person elected, as soon as such person has complied with the provisions of § 24.2-922. (Code 1950, § 24-282; 1970, c. 462, § 24.1-151; 1972, c. 620; 1975, c. 515; 1980, c. 639; 1983, c. 264; 1993, c. 641.)

Mandamus lies to compel delivery of certificate. — Under former § 24.1-151, it is the plain duty of the secretary immediately to make out a certificate of election to petitioner, and to deliver the same to him, and on request of petitioner therefor, the clerk having failed and refused to do so without good cause, the writ of mandamus prayed for by petitioner

should be awarded. *Gregory v. Hubbard*, 123 Va. 510, 96 S.E. 775 (1918). See also *McKinney v. Peers*, 91 Va. 684, 22 S.E. 506 (1895) (decided under prior law).

Grounds insufficient for refusing certificate. — See *Gregory v. Hubbard*, 123 Va. 510, 96 S.E. 775 (1918) (decided under prior law).

§ 24.2-677. State Board to open and record returns; application of Freedom of Information Act. — The State Board, on receipt of the certified abstracts of the votes given in the several counties and cities, shall open the abstracts and record and carefully preserve them.

The provisions of Chapter 37 (§ 2.2-3700 et seq.) of Title 2.2, the Virginia Freedom of Information Act, shall not apply to the certified abstracts of the votes or any other documents used by the Board in ascertaining the results of any election until the results have been finally determined by the Board. (Code 1950, § 24-283; 1970, c. 462, § 24.1-152; 1971, Ex. Sess., c. 206; 1975, c. 515; 1980, c. 639; 1993, c. 641.)

§ 24.2-678. Law-enforcement officer to be sent for abstracts not forwarded. — If the State Board has not received the abstracts of votes from any county or city within seven days after any election, it shall dispatch a law-enforcement officer to obtain a copy of the abstract from the official having charge thereof. That official shall immediately, on demand of the officer, make out and deliver to him the copy required, and the officer shall deliver the abstract to the State Board without delay. (Code 1950, § 24-284; 1970, c. 462, § 24.1-153; 1993, c. 641.)

§ 24.2-679. State Board to meet and make statement as to number of votes. — A. The State Board shall meet on the fourth Monday in November to ascertain the results of the November election. If a majority of the Board is not present or if, for any other reason, the Board is unable to ascertain the results on that day, the meeting shall stand adjourned from day to day for not more than three days until a quorum is present and the Board has ascertained the results as provided in this section.

The Board shall examine the certified abstracts on file in its office and make statements of the whole number of votes given at any such election for members of the General Assembly, Governor, Lieutenant Governor and Attorney General, members of the United States Congress and electors of President and Vice-President of the United States, and any officer shared by more than one county or city, or any combination thereof, or for so many of such officers as have been voted for at the election.

The statement shall show, for each office and each county, city, and election district, the whole number of votes given to each candidate and to any other person elected to office. The Board members shall certify the statements to be correct and sign the statements. The Board shall then determine those persons who received the greatest number of votes and have been duly elected to each office. The Board members shall endorse and subscribe on such statements a certificate of their determination. The Board shall record each certified statement and determination in a suitable book to be kept by it in its office.

B. The State Board shall meet as soon as possible after it receives the returns for any special election held at a time other than the November general election to ascertain the results of the special election in the manner prescribed in subsection A. If the returns have not been received within seven days of the election, the Board shall meet and adjourn from day to day until it receives the returns, ascertains the results, and makes its determination. (Code 1950, §§ 24-285, 24-286, 24-287, 24-289; 1958, c. 605; 1962, c. 536; 1970, c. 462, §§ 24.1-154, 24.1-155; 1971, Ex. Sess., c. 206; 1974, c. 428; 1980, c. 639; 1983, c. 461; 1993, c. 641.)

§ 24.2-680. Certificates of election. — Subject to the requirements of § 24.2-922, the State Board shall without delay complete and transmit to each of the persons declared to be elected a certificate of his election, certified by it under its seal of office. In the election of a member of the United States Congress, it shall also forward a certificate of election to the clerk of the United States Senate or House of Representatives, as appropriate. The names of members elected to the General Assembly shall be certified by the State Board to the clerk of the House of Delegates or Senate, as appropriate. The names of

the persons elected Governor, Lieutenant Governor, and Attorney General shall be certified by the State Board to the clerks of the House of Delegates and Senate. The name of any officer shared by more than one county or city, or any combination thereof, shall be certified by the State Board to the clerk of the circuit court having jurisdiction in each affected county or city. The names of the persons elected to soil and water conservation districts shall be certified by the State Board to the Director of the Department of Conservation and Recreation. (Code 1950, §§ 24-287, 24-289; 1970, c. 462, § 24.1-155; 1974, c. 428; 1980, c. 639; 1983, c. 461; 1993, c. 641; 2001, c. 53.)

The 2001 amendments. — The 2001 amendment by c. 53 added the last sentence.

ARTICLE 5.

Special Elections.

§ 24.2-681. How special elections superintended and determined. — All special elections shall be superintended and held, notice thereof given, ballots prepared, returns made and certified, votes canvassed, results ascertained and made known, and certificates of election given, by the same officers, under the same penalties, and subject to the same regulations as prescribed for general elections, except as otherwise provided by law. (Code 1950, § 24-140; 1970, c. 462, § 24.1-164; 1973, c. 30; 1993, c. 641.)

§ 24.2-682. Times for special elections. — A. Notwithstanding any charter or special act to the contrary, the following provisions govern the times for holding special elections. Every special election shall be held on a Tuesday. No special election shall be held within the sixty days prior to a general or primary election. No special election shall be held on the same day as a primary election. A special election may be held on the same day as a general election.

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

C. A special election to fill a vacancy in any county, city, or town office, including school board member, regularly elected in a November general election, shall be held on a November general election day. A special election to fill a vacancy in any city or town office, including school board member, regularly elected in a May general election, shall be held on a regular May general election day.

A special election to fill a vacancy in any constitutional office shall be held promptly and in accordance with the requirements of subsection A. (Code 1950, §§ 24-44, 24-136, 24-137, 24-138, 24-139, 24-141, 24-346; 1956, c. 378; 1966, c. 115; 1970, c. 462, §§ 24.1-1(5)(c), 24.1-163, 24.1-165; 1971, Ex. Sess., c. 119; 1972, c. 620; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1976, c. 616; 1977, c. 30; 1978, cc. 258, 304, 778; 1979, c. 37; 1980, c. 639; 1981, c. 367; 1982, cc. 498, 650; 1983, c. 461; 1989, c. 322; 1991, c. 592; 1991, 1st Sp. Sess., c. 12; 1993, c. 641; 2000, cc. 787, 1070.)

Cross references. — As to issuance of writs of election to fill vacancies in the General Assembly, see Va. Const., Art. IV, § 7.

The 2000 amendments. — The 2000 amendments by cc. 787 and 1070, effective October 1, 2000, are identical, and in subsection C, deleted "or in any constitutional office" preceding "regularly elected" in the first sen-

tence; and added the second paragraph.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

A primary relates to the nomination of a candidate, by a political party, for a certain office. *Xippas v. Commonwealth*, 141 Va. 497, 126 S.E. 207 (1925) (decided under prior law).

§ 24.2-683. Writ for special election to fill a vacancy. — Whenever the Governor, Speaker of the House, President pro tempore of the Senate, or either house of the General Assembly orders a special election, he, or the person designated to act for the house, shall issue a writ of election designating the office to be filled at the election and the time to hold the election. He shall transmit the writ to the secretary of the electoral board of each county or city in which the election is to be held. Each secretary shall post a copy of the writ at not less than ten public places or have notice of the election published once in a newspaper of general circulation in his jurisdiction at least ten days before the election. If the special election is held in more than one county or city, the secretaries may act jointly to have the notice published once before the election in the affected jurisdictions.

Whenever a special election is ordered to fill a vacancy otherwise than under the preceding paragraph, the officer ordering the election shall issue his writ of election at the time the vacancy occurs, designating the office to be filled at the election and the time and place to hold the election. He shall direct and transmit the writ to the secretary of the electoral board of each county or city in which the election is to be held. The secretary, or secretaries if the election will be held in more than one county or city, shall proceed to cause public notice to be given of the election in the same manner as is required in the preceding paragraph.

A copy of any order calling a special election to fill a vacancy shall be sent immediately to the State Board. (Code 1950, §§ 24-138, 24-139; 1970, c. 462, § 24.1-163; 1974, c. 428; 1975, c. 515; 1993, c. 641.)

Cross references. — As to power of the Governor, the Senate and the House of Delegates to issue writs of election to fill vacancies in the General Assembly, see Va. Const., Art. IV, § 7.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

§ 24.2-684. How referendum elections called and held, and the results ascertained and certified. — Notwithstanding any other provision of any law or charter to the contrary, the provisions of this section shall govern all referenda.

No referendum shall be placed on the ballot unless specifically authorized by statute or by charter.

Whenever any question is to be submitted to the voters of any county, city, town, or other local subdivision, the referendum shall in every case be held pursuant to a court order as provided in this section. The court order calling a referendum shall state the question to appear on the ballot in plain English as that term is defined in § 24.2-687. The order shall be entered and the election held within a reasonable period of time subsequent to the receipt of the request for the referendum if the request is found to be in proper order. The court order shall set the date for the referendum in conformity with the requirements of § 24.2-682.

A copy of the court order calling a referendum shall be sent immediately to the State Board by the clerk of the court in which the order was issued.

The ballot shall be prepared by the appropriate electoral board and distributed to the appropriate precincts. On the day fixed for the referendum, the regular election officers shall open the polls and take the sense of the qualified voters of the county, city, town, or other local subdivision, as the case may be, on the question so submitted. The ballots for use at any such election shall be printed to state the question as follows:

“(Here state briefly the question submitted)

- Yes
- No”

The ballots shall be printed, marked, and counted and returns made and canvassed as in other elections. The results shall be certified by the secretary of the appropriate electoral board to the State Board, to the court ordering the election, and to such other authority as may be proper to accomplish the purpose of the election. (Code 1950, § 24-141; 1966, c. 115; 1970, c. 462, § 24.1-165; 1974, c. 428; 1975, c. 515; 1976, c. 616; 1978, cc. 258, 304; 1979, c. 37; 1980, c. 639; 1981, c. 367; 1982, cc. 498, 650; 1983, c. 461; 1991, c. 592; 1993, c. 641; 1994, c. 142; 1996, c. 297.)

Former § 15.1-221 (see now § 15.2-2658) must be read in conjunction with this section. Where the variance in the ballot used in a bond election from that prescribed by this section is a matter of form and not of substance,

it does not invalidate the bond issue. *Fairfax County Taxpayers Alliance v. Board of County Supvrs.*, 202 Va. 462, 117 S.E.2d 753 (1961) (decided under prior law).

§ 24.2-684.1. Requirements for voter petitions to call for referendum elections. — In addition to other applicable requirements of law, the following requirements shall apply whenever a referendum election is initiated by voter petitions. The requirements of this section shall be construed to override any requirement of general or special law in conflict with this section, except requirements set out in charter provisions to govern the exercise of recall, initiative, or referendum powers in a county, city, or town.

The requirements of this section shall apply to petitions calling for any referendum which is ordered to be held on or after January 1, 1994.

1. Prior to circulating any petition for signature, an individual shall file a copy of the petition with the clerk of the circuit court for the county or city in which the referendum will be held. The individual shall be a qualified voter of the county or city and shall file, with the petition copy, a statement giving his name; residence address and, if different, his mailing address; and the name of the organization, if any, which he represents in circulating the petition. The copy of the petition shall be filed on or after the effective date of the law which authorizes the referendum for which the petition will be circulated. The clerk shall certify, within ten days of such filing, that he has received and accepted the petition copy and statement.

2. If the referendum will be held only in a town, the copy and statement shall be filed with the clerk of the circuit court for the county in which the town, or larger portion of the town, is located, and the individual shall be a qualified voter of the town. If the referendum will be held only in part of a county, city, or town, the copy and statement shall be filed with the clerk of the appropriate circuit court, and the individual shall be a qualified voter of the part of the county, city, or town in which the referendum will be held. If the referendum will be held in more than one county, city, or town, the copy and statement shall be filed with the clerk of the circuit court of any one of the localities in which the referendum will be held, and the individual shall be a qualified voter of that locality.

3. Each qualified voter signing a petition shall date his signature.

4. Each such voter shall provide on the petition his social security number, if any; however, noncompliance with this requirement shall not be cause to invalidate the voter's signature on the petition.

5. Each signature on the petition shall be witnessed by a person who is qualified to vote, or qualified to register to vote, in the referendum for which he is circulating the petition and whose affidavit to that effect appears on each page of the petition.

6. The petition shall be circulated, completed, and filed with the appropriate court or authority within nine months of the date of the certification by the clerk of the circuit court pursuant to subdivision 1.

7. Each qualified voter signing the petition shall have been validly registered in the jurisdiction for which the petition is circulated at the time of signing the petition and at the time of validating the petition signatures.

8. The number of voters registered on January 1 of the year of the certification by the clerk of the circuit court pursuant to subdivision 1 shall be the basis for determining the number of signatures required on the petition in all cases in which the law authorizing the referendum provides that the number of signatures required for the petition is a percentage of the number of registered voters.

9. If the court or authority finds that the filed petitions are valid and sufficient under law, it shall proceed, as provided by law, to order or call for the referendum election. If the court or authority finds that the filed petitions are invalid for any cause, the petitions and the signatures on them shall be invalid for all purposes. The invalidity of one or more signatures on a petition page shall not be cause to invalidate the entire petition page. If the circulators of the petitions fail to file within the nine-month period provided in subdivision 6, the petitions and the signatures on them shall be invalid for all purposes. (1993, c. 996, § 24.1-165.3; 1993, c. 641; 2000, cc. 232, 252.)

Editor's note. — Acts 1993, c. 996 enacted former § 24.1-165.3, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given to this section, as set out above.

The 2000 amendments. — The 2000 amendments by cc. 232 and 252 are identical, and inserted "or qualified to register to vote" in subdivision 5.

§ 24.2-685. Special elections; request for abolition of constitutional offices. — A. The provisions of this section shall be applicable to the holding of any referendum, elsewhere authorized by law, on the abolition of any constitutional office conducted prior to a request for a special act of the General Assembly to abolish such office.

B. Notwithstanding any other provision of general law or any special act, no referendum subject to the provisions of this section shall be held unless:

1. Petitions are filed with the circuit court of the county or city requesting that a referendum be held to authorize a request for a special act on the abolition of the named office;

2. The petitions are signed by qualified voters of the county or city equal in number to twenty percent of the total vote cast in the county or city for presidential electors in the last preceding presidential election; and

3. The petitions are filed with the court within ninety days of the first signature on the petitions, and the petitions show the date each signature was affixed.

C. Upon filing of a valid petition, the court shall order the election and state the question to be placed on the ballot in its order. The court shall order the referendum to be held at the next general election for members of the governing body of the county or city held at least sixty days after the date of the order.

D. After a referendum is conducted pursuant to this section with respect to the abolition of a particular office, no other referendum with respect to the abolition of the same office shall be held in the same county or city pursuant to this section for a period of eight years.

E. No special act authorizing the abolition of any such office shall be considered by the General Assembly without court certification that a referendum has been conducted pursuant to this section and that a majority of the qualified voters voting thereon have approved the request for a special act. (1985, c. 586, § 24.1-165.1; 1993, c. 641.)

§ 24.2-686. Special elections; petition and referendum requirements; abolition of constitutional office by change in form of government. — The provisions of § 24.2-685 shall apply, mutatis mutandis, to any county seeking to change its form of government pursuant to Chapter 3 (§ 15.2-300 et seq.) of Title 15.2 if the effect of such change in form would be the abolition of an existing office created pursuant to Section 4 of Article VII of the Constitution of Virginia. In such case, the circuit court may order a referendum under § 15.2-301 only if requested by a voter petition meeting the requirements of § 24.2-685. In such case, a question in substantially the following form shall be listed first on the ballot and be followed by those provided in § 15.2-301:

“Shall the County of be authorized to change its form of government to one which would eliminate the elected office(s) of ?”

An affirmative vote on the subsequent question or questions on the ballot shall be given effect only if a majority of those voting in the referendum have voted affirmatively on the first question to authorize such a change in the form of government. (1995, cc. 761, 808, 825.)

§ 24.2-687. Authorization for distribution of information on referendum elections. — The governing body of any county or city may provide for the preparation and printing of an explanation for each referendum question to be submitted to the voters of the county or city. The explanation shall be made available at registration sites prior to the referendum, if practicable, and be posted at the polling places on the day of the election. The governing body may have the explanation published by paid advertisement in a newspaper with general circulation in the county or city once preceding the final day for registration, if practicable, and once during the week preceding the referendum.

The explanation shall contain the ballot question and a statement of not more than 500 words on the proposed question. The explanation shall be presented in plain English, shall be limited to a neutral explanation, and shall not present arguments by either proponents or opponents of the proposal. The attorney for the county or city or, if there is no county or city attorney, the attorney for the Commonwealth shall prepare the explanation. “Plain English” means written in nontechnical, readily understandable language using words of common everyday usage and avoiding legal terms and phrases or other terms and words of art whose usage or special meaning primarily is limited to a particular field or profession.

This section shall not be applicable to statewide referenda.

Any failure to comply with the provisions of this section shall not affect the validity of the referendum. (1996, c. 297.)

CHAPTER 7.

ABSENTEE VOTING.

Sec.		Sec.	
24.2-700.	Persons entitled to vote by absentee ballot.	24.2-703.1.	Special annual applications for absentee ballots for certain ill or disabled voters.
24.2-701.	Application for absentee ballot.	24.2-704.	Applications and ballots for persons requiring assistance in voting.
24.2-702.	Application for early absentee ballot; procedures.	24.2-705.	Emergency applications and absentee ballots for persons incapacitated or hospitalized.
24.2-702.1.	Federal write-in absentee ballots.		
24.2-703.	Application for absentee ballots for multiple elections.		

<p>Sec. 24.2-705.1. Late applications and in-person absentee voting for business and medical emergencies. 24.2-705.2. Late applications and in-person absentee voting for certain officers of election. 24.2-706. Duty of general registrar and electoral board on receipt of application; statement of voter. 24.2-707. How ballots marked and returned by mail; cast in person; cast on voting equipment. 24.2-708. Return of unused ballots; voting by</p>	<p>Sec. applicant who did not receive or lost ballot; defaced ballots. 24.2-709. Ballot to be returned in manner prescribed by law. 24.2-710. Further duties of electoral board and general registrar; absentee voter applicant lists. 24.2-711. Duties of officers of election. 24.2-712. Central absentee voter precincts; counting ballots. 24.2-713. Emergency authority of the Secretary of the State Board of Elections.</p>
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§ 24.2-700. **Persons entitled to vote by absentee ballot.** — The following registered voters may vote by absentee ballot in accordance with the provisions of this chapter in any election in which they are qualified to vote:

1. Any person who, in the regular and orderly course of his business, profession, or occupation or while on personal business or vacation, will be absent from the county or city in which he is entitled to vote;

2. Any person who is (i) a member of a uniformed service of the United States, as defined in 42 U.S.C. § 1973ff-6(7), on active duty, or (ii) a member of the merchant marine of the United States, or (iii) regularly employed in a business, profession or occupation outside the continental limits of the United States, or (iv) the spouse or dependent residing with any person listed in (i), (ii), or (iii), and who will be absent on the day of the election from the county or city in which he is entitled to vote;

3. Any student attending a school or institution of learning, or his spouse, who will be absent on the day of election from the county or city in which he is entitled to vote;

4. Any person who is unable to go in person to the polls on the day of election because of a physical disability or physical illness;

5. Any person who is confined while awaiting trial or for having been convicted of a misdemeanor, provided that the trial or release date is scheduled on or after the third day preceding the election. Any person who is awaiting trial and is a resident of the county or city where he is confined shall, on his request, be taken to the polls to vote on election day if his trial date is postponed and he did not have an opportunity to vote absentee;

6. Any person who is a member of an electoral board, registrar, officer of election, or custodian of voting equipment;

7. Any duly registered person who is unable to go in person to the polls on the day of the election because he is primarily and personally responsible for the care of an ill or disabled family member who is confined at home;

8. Any duly registered person who is unable to go in person to the polls on the day of the election because of an obligation occasioned by his religion; or

9. Any person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for eleven or more hours of the thirteen hours that the polls are open pursuant to § 24.2-603. (Code 1950, § 24-319; 1952, c. 488; 1970, c. 462, § 24.1-227; 1971, Ex. Sess., c. 119; 1972, c. 620; 1974, c. 428; 1975, c. 515; 1976, c. 616; 1981, c. 425; 1983, c. 461; 1988, c. 6; 1989, c. 320; 1993, cc. 414, 641; 1995, c. 157; 1998, c. 254; 2000, c. 378; 2001, c. 631.)

Cross references. — As to special annual applications for absentee ballots for certain ill or disabled voters, see § 24.2-703.1.

Editor's note. — Acts 1993, c. 414 amended

former § 24.1-227, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above, to Acts 1993, c. 414.

The 2000 amendments. — The 2000 amendment by c. 378 deleted “or” from the end of subdivision 7, added “or” to the end of subdivision 8, and added subdivision 9.

The 2001 amendments. — The 2001 amendment by c. 631 inserted “and commuting to and from his home to his place of work” in subdivision 9.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

Constitutionality. — Former Article 7 of Chapter 7 of Title 24.1 does not contravene any constitutional inhibition. *Moore v. Pullem*, 150 Va. 174, 142 S.E. 415 (1928) (decided under prior law); *Goodwin v. Snidow*, 150 Va. 54, 142 S.E. 423 (1928) (decided under prior law).

Former Article 7 of Chapter 7 of Title 24.1 is not unconstitutional on the grounds that the secrecy of the ballot may be invaded and fraud committed. *Moore v. Pullem*, 150 Va. 174, 142 S.E. 415 (1928) (decided under prior law).

Purpose. — Former Article 7 of Chapter 7 of Title 24.1 was carefully drawn for the purpose of preserving the secrecy of the ballot, for the identification of the voter, for publicity as to the actual voting on the day of election, and for the prevention of fraud. The article was based upon sound public policy, and its constitutionality should be upheld unless it clearly contravenes some inhibition to be found in the Constitution. *Moore v. Pullem*, 150 Va. 174, 142 S.E. 415 (1928) (decided under prior law).

§ 24.2-701. Application for absentee ballot. — A. The State Board shall furnish each general registrar with a sufficient number of applications for official absentee ballots. The registrars shall furnish applications to persons requesting them.

Beginning with the general election in November 1999, the State Board shall implement a system which enables eligible persons to request and receive an absentee ballot application electronically through the global information system known as the Internet. Electronic absentee ballot applications shall be in a form approved by the State Board.

Except as provided in § 24.2-703, a separate application shall be completed for each election in which the applicant offers to vote. An application for an absentee ballot may be accepted the later of (i) twelve months before an election, or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote.

Any application received before the ballots are printed shall be held and processed as soon as the printed ballots for the election are available.

For the purposes of this chapter, the general registrar’s office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all general elections, except May general elections held in towns, and on the Saturday immediately preceding any primary election, May general election held in a town, or special election.

Unless physically disabled, all applications for absentee ballots shall be signed by the applicant who shall state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that to the best of his knowledge and belief the facts contained in the application are true and correct and that he has not and will not vote in the election at any other place in Virginia or in any other state. If the applicant is unable to sign the application, a person assisting the applicant will note this fact on the applicant signature line and provide his signature, name, and address.

B. Applications for absentee ballots shall be completed in the following manner:

1. An application completed in person shall be made not less than three days prior to the election in which the applicant offers to vote and completed only in the office of the general registrar. The applicant shall sign the application in the presence of a registrar or the secretary of the electoral board.

2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile device if one is available to the office of the general registrar or the office of the State Board if a device is not available locally, or other means. The application shall be on a form furnished by the registrar or,

if made under subdivision 2 of § 24.2-700, may be on a Federal Post Card Application prescribed pursuant to 42 U.S.C. § 1973ff (b) (2). The Federal Post Card Application may be accepted the later of (i) twelve months before an election, or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote. The application shall be made to the appropriate registrar not less than five days prior to the election in which the applicant offers to vote.

C. Applications for absentee ballots shall contain the following information:

1. The applicant's printed name and the reason the applicant will be absent or cannot vote at his polling place on the day of the election;

2. A statement that he is registered in the county or city in which he offers to vote and his residence address in such county or city. Any person who makes application under subdivision 2 of § 24.2-700 who is not a registered voter and who is entitled to register by absentee application pursuant to § 24.2-419, may file the applications to register and for a ballot simultaneously;

3. The complete address to which the ballot is to be sent directly to the applicant, provided that the application is not made in person at a time when the printed ballots for the election are available. The address given shall be either the address of the applicant on file in the registration records or the address at which he will be located while absent from his county or city. No ballot shall be sent to, or in care of, any other person; and

4. In the case of a person, or the spouse or dependent of a person, who is on active service as a member of the armed forces of the United States or a member of the merchant marine of the United States, the branch of service to which he or the spouse belongs, and his or the spouse's rank, grade, or rate, and service identification number; or

5. In the case of a person, or the spouse or dependent accompanying such person, who is regularly employed outside the continental limits of the United States, the name and address of his employer; or

6. In the case of a student, or the spouse of a student, who is attending a school or institution of learning, the name and address of the school or institution of learning; or

7. In the case of a person who is unable to go in person to the polls on the day of the election because of a physical disability or physical illness, the nature of the illness or disability; or

8. In the case of a person who is confined awaiting trial or for having been convicted of a misdemeanor, the name and address of the institution of confinement; or

9. In the case of a person who will be absent on election day for business reasons, the name of his employer or business; or

10. In the case of a person who will be absent on election day for personal business or vacation reasons, the name of the county or city in Virginia or the state or country to which he is traveling; or

11. In the case of a person who is unable to go to the polls on the day of election because he is primarily and personally responsible for the care of an ill or disabled family member who is confined at home, the name of the family member and the nature of his illness or disability; or

12. In the case of a person who is unable to go to the polls on the day of election because of an obligation occasioned by his religion, his religion and the nature of the obligation; or

13. In the case of a person who, in the regular and orderly course of his business, profession, or occupation, will be at his place of work and commuting to and from his home to his place of work for eleven or more hours of the thirteen hours that the polls are open pursuant to § 24.2-603, the name of his business or employer, address of his place of work, and hours he will be at the workplace and commuting on election day. (Code 1950, § 24.1-228; 1970, c.

462, § 24.1-228.1; 1971, Ex. Sess., c. 119; 1972, cc. 620, 621; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1977, c. 490; 1978, c. 778; 1980, c. 639; 1981, c. 425; 1982, c. 650; 1983, c. 461; 1988, c. 8; 1989, c. 320; 1992, c. 288; 1993, cc. 414, 641; 1996, c. 295; 1998, c. 254; 2000, cc. 378, 863; 2001, cc. 621, 631, 793.)

Editor's note. — Acts 1993, c. 414 amended former § 24.1-228.1, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above. In accordance with c. 414, the amendment, in subsection C, added "or" at the end of subdivision 10, and added subdivision 11.

The 2000 amendments. — The 2000 amendment by c. 378 added "or" to the end of subdivision C 12 and added subdivision C 13.

The 2000 amendment by c. 863 inserted "except those submitted pursuant to § 24.2-703," in the third paragraph of subsection A.

The 2001 amendments. — The 2001 amendment by c. 621 substituted "a person assisting the applicant will note this fact on the applicant signature line and provide his signature, name, and address" for "the witness will note this fact on the applicant signature line" in the last sentence of the paragraph of subsection A.

The 2001 amendment by c. 631, in subdivision C 13, inserted "and commuting to and from his home to his place of work," and inserted "and commuting" preceding "on election day."

The 2001 amendment by c. 793 substituted the present last sentence in the third paragraph of subsection A for the former next to last sentence in the paragraph, which read: "No application, except those submitted pursuant to § 24.2-703, shall be accepted more than ten months prior to the election for which the ballot is requested," and indented the former last sentence in that paragraph as the present fourth paragraph in the subsection; and in the present fifth paragraph in subsection A, substituted "all general elections, except May general elections held in towns," for all general or primary elections," and inserted "primary election, May general election held in a town, or" preceding "special election" at the end of the paragraph.

§ 24.2-702. Application for early absentee ballot; procedures. — Notwithstanding any other provisions of this title, a person, who is eligible for an absentee ballot under subdivision 2 of § 24.2-700 and qualified under this section, may apply, not later than ninety days before that election, for an absentee ballot only for elections for Governor, Lieutenant Governor, or Attorney General.

The application may be made on the Federal Post Card Application.

In order to qualify for the absentee ballot, the voter shall state that he is unable to vote in any other manner due to overseas military service or due to living in an isolated or extremely remote overseas area. This statement may be made on the Federal Post Card Application.

On receipt of the application, the electoral board shall issue, at least ninety days before an election, the printed ballot only for elections for Governor, Lieutenant Governor, or Attorney General. No additional ballot or ballots shall be provided to such applicants for that election date. (1992, c. 291, § 24.1-228.1:2; 1993, c. 641.)

§ 24.2-702.1. Federal write-in absentee ballots. — Notwithstanding any other provision of this title, a qualified absentee voter who is eligible for an absentee ballot under subdivision 2 of § 24.2-700 may use a federal write-in absentee ballot in general, special, and primary elections for federal office. Such ballot shall be submitted and processed in the manner provided by the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff et seq.) and this article. (1993, c. 813, § 24.1-228.2:1; 1993, c. 641.)

Editor's note. — Acts 1993, c. 813 enacted former § 24.1-228.2:1, from which this section is derived. Pursuant to § 9-77.11 and Acts

1993, c. 641, cl. 6, effect has been given to this section, as set out above.

§ 24.2-703. Application for absentee ballots for multiple elections. — Any person who is eligible for an absentee ballot under subdivision 2 of § 24.2-700 may file a single application to receive ballots for all elections in which he is eligible to vote absentee during the calendar year. The application shall be on a Federal Post Card Application. The application may be accepted the later of (i) twelve months before an election, or (ii) the day following any election held in the twelfth month prior to the election in which the applicant is applying to vote, and shall be valid for any election conducted five or more days after receipt of the application by the general registrar. An application received between a November election date and December 31 shall be accepted as an application for the succeeding calendar year and for any special elections held prior to December 31 in the year the application is made.

The general registrar shall retain the application and process the applicant's request for an absentee ballot for each election in accordance with procedures established by the State Board. The applicant shall specify by party designation the primary ballots he is requesting.

If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, no ballots for subsequent elections shall be sent during the calendar year. (1991, c. 603, § 24.1-228.1:1; 1993, c. 641; 2001, c. 793.)

The 2001 amendments. — The 2001 amendment by c. 793, in the first paragraph, substituted "accepted the later of (i) twelve months before an election, or (ii) the day following any election held in the twelfth month prior

to the election in which the applicant is applying to vote," for "filed at any time during the calendar year" near the beginning of the third sentence, and added the last sentence in the paragraph.

§ 24.2-703.1. Special annual applications for absentee ballots for certain ill or disabled voters. — Any person who is eligible for an absentee ballot under subdivision 4 of § 24.2-700 because of a physical disability or physical illness and who is likely to remain so disabled or ill for the remainder of the calendar year shall be eligible to file a special annual application to receive ballots for all elections in which he is eligible to vote in a calendar year. His first such application shall be accompanied by a statement, on a form prescribed by the State Board and signed by the voter and his physician or accredited religious practitioner, that the voter is eligible for an absentee ballot under subdivision 4 of § 24.2-700 because of a physical disability or physical illness and likely to remain so disabled or ill for the remainder of the calendar year.

In accordance with procedures established by the State Board, the general registrar shall retain the application and form, enroll the applicant on a special absentee voter applicant list, and process the applicant's request for an absentee ballot for each succeeding election in the calendar year. The applicant shall specify by party designation the primary ballots he is requesting.

The general registrar shall send each such enrolled applicant a blank application by December 15 for each ensuing calendar year, and upon completion thereof, the applicant shall be eligible to receive ballots for all elections in which he is eligible to vote in that calendar year.

If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, or the general registrar knows that the applicant is no longer a qualified voter, no ballot for any subsequent election shall be sent to the voter until a new application is filed and accepted. (2001, cc. 789, 850.)

Editor's note. — Acts 2001, cc. 789 and 850, cl. 2, provide: "That the State Board of Elections shall monitor implementation of the pro-

visions of this act and, annually beginning July 1, 2002, shall report to the General Assembly and the Governor the number of individuals

benefiting from this absentee ballot procedure in each locality as well as any abuses of the procedure.”

§ 24.2-704. Applications and ballots for persons requiring assistance in voting. — The application for an absentee ballot shall provide space for the applicant to indicate that he will require assistance to vote his absentee ballot by reason of blindness, physical disability, or inability to read or write. On receipt of an application from an applicant marked to indicate he will require assistance, the electoral board shall deliver, with the items required by § 24.2-706, the voter assistance form furnished by the State Board pursuant to § 24.2-649. The voter and any person assisting him shall complete the form by signing the request for assistance and statement required of the assistant. If the voter is unable to sign the request, the witness will note this fact on the line for signature of voter. The provisions of § 24.2-649 shall apply to absentee voting and assistance for absentee voters. (1984, c. 775, § 24.1-228.2; 1993, c. 641; 1996, c. 295.)

§ 24.2-705. Emergency applications and absentee ballots for persons incapacitated or hospitalized. — Any person registered and otherwise qualified to vote who becomes incapacitated on or after the seventh day preceding an election may request at any time prior to 2:00 p.m. on the day preceding the election that an emergency absentee ballot application be delivered to him. A voter who becomes hospitalized on or after the fourteenth day preceding the election and who is unable, because of his condition, to request an absentee ballot earlier than the seventh day preceding the election may request at any time prior to 2:00 p.m. on the day before an election that an emergency absentee ballot be delivered to him in the hospital. For purposes of this section, “incapacitated” means hospitalized, ill and confined to his residence, bereaved by the death of a spouse, child, or parent, or otherwise incapacitated by an emergency which is found by the electoral board to justify providing an emergency ballot application; and “hospital” means a hospital as defined in § 32.1-123 and any comparable hospital in the District of Columbia or any state contiguous to Virginia.

On receipt of the request, the electoral board shall provide an emergency absentee ballot application to the incapacitated voter’s designated representative who shall deliver the application to the voter. If the voter is hospitalized, the delivery shall be made to him at the hospital; and if the voter is otherwise incapacitated, the delivery shall be made to him at his current residence address as shown on the registration records. The representative shall be age eighteen or older and shall not be an elected official, a candidate for elected office, or the deputy, spouse, parent, or child of an elected official or candidate.

The application shall be on a form prescribed by the State Board and shall require the applicant (i) to state the cause of his incapacity, (ii) to state that he is unable to be present at the polls on election day, and that he was either incapacitated on or after the seventh day preceding the election or hospitalized on or after the fourteenth day preceding the election and unable to request the application earlier than the seventh day preceding the election, (iii) to designate a representative to receive, deliver and return the ballot, and (iv) to provide other information required by law for an absentee ballot application.

If the voter is hospitalized, a hospital administrative official or a licensed physician attending the applicant shall certify on the form to the hospitalization of the applicant and the applicant’s inability to be present at the polls on election day. If the voter is ill and confined to his residence, a licensed physician or an accredited religious practitioner attending the applicant shall certify on the form to the incapacity of the applicant and the applicant’s

inability to be present at the polls on election day. If the voter is bereaved, a licensed physician, an accredited religious practitioner or a funeral service licensee (as defined in § 54.1-2800) shall certify on the form to the incapacity of the applicant and the applicant's inability to be present at the polls on election day. If the voter is otherwise incapacitated as determined by the electoral board, the secretary of the electoral board shall certify on the form to the incapacity of the applicant and the applicant's inability to be present at the polls on election day. The applicant shall sign the application and state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that to the best of his knowledge and belief the facts contained in the application are true and correct. His signature shall be witnessed by the designated representative who shall sign and return the completed application to the office of the general registrar no later than 5:00 p.m. on the day preceding the election. For the purposes of this section, "accredited religious practitioner" means a person who has been trained in spiritual healing or the other healing arts and has been so accredited by a formal religious order.

On receipt of the completed application and a determination of the qualification of the applicant to vote, the general registrar or secretary of the electoral board shall provide, in accordance with the applicable provisions of this chapter, an absentee ballot to the designated representative for delivery to the incapacitated voter.

The incapacitated voter shall vote the absentee ballot as provided by law and mark it in the presence of the designated representative. The representative shall complete a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that (i) he is the representative of the incapacitated voter; (ii) he personally delivered the ballot to the voter who applied for it; (iii) in his presence, the voter marked the ballot, the ballot was placed in the envelope provided, the envelope was sealed, and the statement on its reverse side was signed by the incapacitated voter; and (iv) the ballot was returned, under seal, to the electoral board at the registrar's office.

The ballot shall be counted only if the ballot is received by the electoral board (i) prior to noon on the day of the election in any county, city, or town which does not have a central absentee voter election district or (ii) prior to the closing of the polls in any county, city, or town which has a central absentee voter precinct. (1989, c. 192, § 24.1-229.1; 1990, c. 200; 1993, cc. 420, 641; 1996, c. 224; 1997, cc. 523, 539; 1999, c. 590; 2001, c. 622.)

Editor's note. — Acts 1993, c. 420 amended former § 24.1-229.1, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above, to Acts 1993, c. 420.

The 1999 amendment substituted "seventh day" for "fifth day" throughout the section.

The 2001 amendments. — The 2001 amendment by c. 622 substituted "2:00 p.m." for "noon" in two places in the first paragraph.

§ 24.2-705.1. Late applications and in-person absentee voting for business and medical emergencies. — Any person registered and otherwise qualified to vote who becomes obligated after 12:00 noon on the Saturday before an election to be absent from his county or city on election day for a purpose pertaining to (i) his business, profession, or occupation, (ii) the hospitalization of the applicant or a member of his immediate family, or (iii) the death of a member of his immediate family, may apply for an absentee ballot and vote absentee in person pursuant to this section and subject to the following conditions:

1. The applicant applies in person for an absentee ballot on the Monday immediately preceding the election, before 2:00 p.m., at the principal office of the registrar; and

2. The applicant signs a statement, which shall be deemed part of his absentee ballot application and subject to felony penalties for making false

statements pursuant to § 24.2-1016, that he is required to leave the county or city before the opening of the polls on election day for a purpose pertaining to (i) his business, profession or occupation, (ii) the hospitalization of the applicant or a member of his immediate family, or (iii) the death of a member of his immediate family, and that he did not have notice or knowledge of such required travel prior to 12:00 noon on the immediately preceding Saturday. "Immediate family" means the children, grandchildren, grandparents, parents, siblings and spouse of the applicant. (1997, c. 464; 2001, c. 622.)

The 2001 amendments. — The 2001 amendment by c. 622, in the introductory language, and in subdivision 2, inserted the clause (i) designator, and inserted "(ii) the hospitalization of the applicant or a member of his imme-

mediate family, or (iii) the death of a member of his immediate family," and in subdivision 2, substituted "2:00 p.m." for "noon," and added the last sentence.

§ 24.2-705.2. Late applications and in-person absentee voting for certain officers of election. — Any officer of election, registered and otherwise qualified to vote, who is assigned after 12:00 noon on the Saturday before an election to be absent from his precinct and to serve as an officer of election in another precinct on election day, may apply for an absentee ballot and vote absentee in person pursuant to this section and subject to the following conditions:

1. The officer of election applies in person for an absentee ballot on the Monday immediately preceding the election, before 2:00 p.m., at the principal office of the registrar; and
2. The officer signs a statement, which shall be deemed part of his absentee ballot application and subject to felony penalties for making false statements pursuant to § 24.2-1016, that he has been assigned to serve in a precinct other than the precinct where he votes and that he did not have notice or knowledge of such assignment prior to 12:00 noon on the immediately preceding Saturday. (2001, c. 622.)

§ 24.2-706. Duty of general registrar and electoral board on receipt of application; statement of voter. — On receipt of an application for an absentee ballot, the general registrar shall enroll the name and address of each registered applicant on an absentee voter applicant list that shall be maintained in the office of the general registrar with a file of the applications of the listed applicants. The list and the applications shall be available for inspection and copying by any registered voter during regular office hours.

No list or application containing an individual's social security number shall be made available for inspection or copying by anyone. The State Board of Elections shall prescribe procedures for local electoral boards and general registrars to make the information in the lists and applications available in a manner that does not reveal social security numbers.

The completion and timely delivery of an application for an absentee ballot shall be construed to be an offer by the applicant to vote in the election.

The general registrar shall note on each application received whether the applicant is or is not a registered voter and notify the secretary of the electoral board. In reviewing the application for an absentee ballot, the general registrar and electoral board shall not reject the application of any individual because of an error or omission on any record or paper relating to the application, if such error or omission is not material in determining whether such individual is qualified to vote absentee.

If the application has been properly completed and signed and the applicant is a registered voter of the precinct in which he offers to vote, the electoral board shall immediately send to the applicant by mail, obtaining a certificate

of mailing, or deliver to him in person in the office of the secretary or registrar, the following items and nothing else:

- 1. An envelope containing the folded ballot, sealed and marked "Ballot within. Do not open except in presence of a witness."
- 2. An envelope, with printing only on the flap side, for resealing the marked ballot, on which envelope is printed the following:

"Statement of Voter."

"I do hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that my full name is (last, first, middle); that I am now or have been at some time since the last November general election a legal resident of (house number, street name or rural route address, city, zip code); that I received the enclosed ballot(s) upon application to the registrar of such county or city; that I opened the envelope marked 'ballot within' and marked the ballot(s) in the presence of the witness, without assistance or knowledge on the part of anyone as to the manner in which I marked it (or I am returning the form required to report how I was assisted); that I then sealed the ballot(s) in this envelope; and that I have not voted and will not vote in this election at any other time or place.

Signature of Voter
Date

Signature of witness"

- 3. A properly addressed envelope for the return of the ballot to the electoral board by mail or by the applicant in person.
- 4. Printed instructions for completing the ballot and statement on the envelope and returning the ballot.

The envelopes and instructions shall be in the form prescribed by the State Board.

If the applicant makes his application to vote in person under § 24.2-701 at a time when the printed ballots for the election are available, the general registrar or the secretary of the electoral board, on the determination of the qualifications of the applicant to vote, shall provide to the applicant the items set forth in subdivisions 1 through 4 above and no item shall be removed by the applicant from the office of the general registrar or the secretary of the electoral board.

If the applicant states as the reason for his absence on election day any of the reasons set forth in subdivision 2 of § 24.2-700, the electoral boardmail or deliver in person to the applicant in the office of the secretary or general registrar, the items as set forth in subdivisions 1 through 4 above and, if necessary, an application for registration pursuant to § 24.2-419. A certificate of mailing shall not be required.

When the statement prescribed in subdivision 2 above has been properly completed and signed by the registered voter and witnessed, his ballot shall not be subject to challenge pursuant to § 24.2-651. (Code 1950, §§ 24-327, 24-332, 24-333, 24-345.6, 24-345.7; 1952, c. 509; 1956, c. 525; 1958, c. 351; 1970, c. 462, § 24.1-229; 1971, Ex. Sess., cc. 119, 247, 265; 1972, c. 620; 1974, c. 428; 1975, c. 515; 1977, c. 490; 1978, c. 778; 1980, c. 639; 1981, c. 425; 1983, c. 461; 1988, cc. 624, 691; 1993, c. 641; 1994, cc. 633, 656; 1996, c. 253; 2000, c. 421; 2001, cc. 621, 866.)

The 2000 amendments. — The 2000 amendment by c. 421 substituted "a legal" for "an actual" in the paragraph following the heading "Statement of Voter."

The 2001 amendments. — The 2001 amendment by c. 621 substituted "applicant list that" for "applicant list which" in the first paragraph, and substituted "and signed" for "signed, and witnessed" in the fourth paragraph.

The 2001 amendment by c. 866 added the second sentence of the fourth paragraph.

§ 24.2-707. How ballots marked and returned by mail; cast in person; cast on voting equipment. — On receipt of a mailed absentee ballot, the voter shall, in the presence of a witness, (i) open the sealed envelope marked "ballot within" and (ii) mark and refold the ballot, as provided in §§ 24.2-644 and 24.2-646 without assistance and without making known how he marked the ballot, except as provided by § 24.2-704.

After the voter has marked his absentee ballot, he shall (i) enclose the ballot in the envelope provided for that purpose, (ii) seal the envelope, (iii) fill in and sign the statement printed on the back of the envelope in the presence of a witness, who shall sign the same envelope, (iv) enclose the ballot envelope and any required assistance form within the envelope directed to the electoral board, and (v) seal that envelope and mail it to the office of the electoral board or deliver it personally to the electoral board or the general registrar.

An applicant who makes his application to vote in person at a time when the printed ballots for the election are available shall follow the same procedure set forth above except that he shall complete the procedure in person in the office of the general registrar or secretary of the electoral board, or at another location or locations in the county or city approved by the electoral board, before a registrar, the secretary, or, if a ballot is cast at that time, before the officers of election appointed by the electoral board. Any such location shall be in a public building owned or leased by the city, the county, or a town within the county, with adequate facilities for the protection of all records concerning the absentee voters, the absentee ballots, both voted and unvoted, and any voting equipment in use at the location. Such location may be in a facility owned or leased by the Commonwealth and used as a location for Department of Motor Vehicles facilities and for an office of the general registrar. Such location shall be deemed the equivalent of the office of the general registrar or secretary of the electoral board for the purpose of completing the application for an absentee ballot in person pursuant to §§ 24.2-701 and 24.2-706.

Failure to follow the procedures set forth above shall render the applicant's ballot void.

The electoral board of any county or city using a central absentee voting precinct may provide for the casting of absentee ballots on voting equipment prior to election day by applicants who are voting in person. The State Board shall prescribe procedures for the use of voting equipment. The procedures shall provide for the casting of absentee ballots prior to election day by in-person applicants on voting equipment which has been certified, and is currently approved, by the State Board. The procedures shall be applicable and uniformly applied by the State Board to all jurisdictions using comparable voting equipment. At least two officers of election, one representing each political party, shall be present during all hours that absentee voting is available at any location at which absentee ballots are cast prior to election day.

The requirement that officers of election shall be present if ballots are cast on voting equipment prior to election day shall not be applicable when the voting equipment is located in the office of the general registrar or secretary of the electoral board and the general registrar, an assistant registrar, or the secretary of the electoral board is present. (Code 1950, §§ 24-334, 24-337; 1956, c. 525; 1970, c. 462, § 24.1-232; 1972, c. 620; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1978, c. 778; 1981, c. 425; 1993, c. 641; 1996, c. 393; 1997, cc. 429, 450; 2001, cc. 617, 624.)

The 2001 amendments. — The 2001 amendments by cc. 617 and 624 are identical, and added the third sentence of the third paragraph.

§ 24.2-708. Return of unused ballots; voting by applicant who did not receive or lost ballot; defaced ballots. — If for any reason a person, who has applied for and received a ballot, decides not to vote absentee, he shall return the ballot unopened, in the sealed envelope in which it was sent to him, to the electoral board, on or before the day of the election in which the ballot was intended to be used.

The electoral board shall note on the absentee voter applicant list, opposite the name of the person returning the ballot, the fact that the ballot was returned unused and the date of the return. The electoral board shall carefully preserve all ballots returned unused and deliver them, together with other returned ballots, to the officers of election on election day. A voter, who has returned his unused ballot as provided herein, shall be entitled to cast his vote in person on election day at his precinct.

If for any reason a person who has applied for and has been sent an absentee ballot does not receive the ballot or loses the ballot, he shall be entitled to cast another ballot after presenting to the electoral board, registrar or officer of election a statement signed by him that he did not receive the ballot or has lost the ballot, subject to felony penalties for making false statements as pursuant to § 24.2-1016.

If a person who has applied for and has been sent an absentee ballot has unintentionally or accidentally defaced and rendered the ballot unfit for voting, he shall be entitled to cast a ballot after presenting the defaced ballot to the electoral board, registrar or officer of election. The returned ballot shall be marked spoiled by the electoral board, registrar or officer of election and placed in a spoiled-ballot envelope to be retained with the ballots for the election. (Code 1950, §§ 24-336, 24-340.1; 1954, c. 511; 1970, c. 462, § 24.1-233; 1974, c. 428; 1978, c. 778; 1993, c. 641; 1999, c. 725.)

The 1999 amendment, in the third paragraph, inserted “or loses the ballot” and inserted “or has lost the ballot,” and added the last paragraph.

§ 24.2-709. Ballot to be returned in manner prescribed by law. — Any ballot returned to the office of the electoral board or general registrar in any manner except as prescribed by law, shall be void. The board member or registrar receiving the ballot shall mark on each envelope the date, time, and manner of delivery. For all ballots returned by the general registrar to the electoral board, the board shall give to the general registrar a receipt showing the time and date of the return. (Code 1950, § 24-328; 1956, c. 525; 1970, c. 462, § 24.1-230; 1971, Ex. Sess., c. 119; 1975, c. 515; 1993, c. 641.)

§ 24.2-710. Further duties of electoral board and general registrar; absentee voter applicant lists. — On receipt of an absentee ballot, the electoral board or general registrar shall mark the date of receipt in the appropriate column opposite the name and address of the voter on the absentee voter applicant list maintained in the general registrar’s office. A board member or registrar shall deposit the return envelope and the unopened ballot envelope in an appropriate container provided for the purpose, in which they shall remain until the day of the election.

On the day before the election, the general registrar shall (i) make out in triplicate on a form prescribed by the State Board the absentee voter applicant list containing the names of all persons who applied for an absentee ballot through the third day before the election and (ii) by noon on the day before the election, deliver two copies of the list to the electoral board. The general

registrar shall make out a supplementary list containing the names of all persons voting absentee in person pursuant to §§ 24.2-705.1 and 24.2-705.2, or applying to vote absentee pursuant to § 24.2-705, for delivery by 5:00 p.m. on the day before the election. The supplementary list shall be deemed part of the absentee voter applicant list and shall be prepared and delivered in accordance with the instructions of the State Board. The general registrar shall maintain one copy of the list in his office for two years as a public record open for inspection upon request during regular office hours.

On the day before the election, the electoral board shall deliver one copy of the list provided to it by the general registrar to the chief officer of election for each precinct. The list shall be attested by the secretary of the electoral board who shall be responsible for the delivery of the attested lists to the chief officer of election for each precinct.

Absentee ballots shall be accepted only from voters whose names appear on the attested list.

Before the polls close on the day of the election, the electoral board shall deliver the absentee ballot containers to, and obtain a receipt from, the officers of election at each appropriate precinct. The containers shall be sealed prior to delivery to the officers and shall contain the sealed absentee ballots, the accompanying return envelopes, and a copy of the absentee voter applicant list for each precinct.

If the county or city uses a central absentee voter precinct pursuant to § 24.2-712, the lists and containers shall be delivered, as provided in this section, to the officers of election for the absentee precinct.

Before noon on the day following the election, the general registrar shall deliver all applications for absentee ballots for the election, under seal, to the clerk of the circuit court for the county or city. The clerk shall retain the sealed applications with the counted ballots.

The secretary of the electoral board shall deliver all absentee ballots received after the election to the clerk of the circuit court. (Code 1950, §§ 24-327, 24-330, 24-332, 24-333, 24-338, 24-338.1, 24-339, 24-340, 24-341, 24-342, 24-345.6, 24-345.7, 24-345.8; 1952, c. 509; 1954, cc. 511, 523, 539; 1956, c. 525; 1958, c. 351; 1962, c. 536; 1964, c. 557; 1970, c. 462, §§ 24.1-229, 24.1-231, 24.1-234; 1971, Ex. Sess., cc. 119, 247, 265; 1972, cc. 620, 621; 1974, c. 428, § 24.1-233.1; 1975, c. 515; 1977, c. 490; 1978, c. 778; 1980, c. 639; 1981, c. 425; 1983, c. 461; 1988, cc. 624, 691; 1991, c. 3; 1993, c. 641; 1997, c. 464; 2001, cc. 622, 799.)

The 2001 amendments. — The 2001 amendment by c. 622 substituted “§§ 24.2-705.1 and 24.2-705.2, or applying to vote absentee pursuant to § 24.2-705, for delivery and posting by 5:00 p.m.” for “§ 24.2-705.1 for delivery and posting by 4:00 p.m.” in the second paragraph.

The 2001 amendment by c. 799 deleted “and

post a copy in the general registrar’s office” at the end of the first sentence in the second paragraph; deleted “and posting” following “delivery” in the second sentence in the second paragraph; and inserted “upon request” near the end of the fourth sentence in the second paragraph.

§ 24.2-711. Duties of officers of election. — Before the polls open, the officers of election at each precinct shall mark, for each person on the absentee voter applicant list, the letters “AB” (meaning absentee ballot) in the voting record column on the precinct registered voter list.

The chief officer of election shall keep the copy of the absentee voter applicant list in the polling place as a public record open for inspection upon request at all times while the polls are open.

If a voter, whose name appears on the absentee voter applicant list, has not returned an unused ballot and offers to vote in his precinct, the officers of election in the precinct shall determine the matter pursuant to § 24.2-708 or,

if the locality has a central absentee voter precinct, shall refuse to give him a ballot and shall refer him to the officers of the absentee precinct for an appeal pursuant to § 24.2-712.

After the close of the polls, the container of absentee ballots shall be opened by the officers of election. As each ballot envelope is removed from the container, the name of the voter shall be called and checked as if the voter were voting in person. If the voter is found entitled to vote, his name shall be entered in the pollbook. The ballot envelope shall then be opened, and the ballot deposited in the ballot box without being unfolded or examined. If the voter is found not entitled to vote, the unopened envelope shall be rejected. A majority of the officers shall write and sign a statement of the cause for rejection on the envelope or on an attachment to the envelope.

When all ballots have been accounted for and either voted or rejected, the officers shall place the empty ballot envelopes, the return envelopes, and any rejected ballot envelopes, in one envelope provided for the purpose and seal and deliver it with the ballots cast at the election as provided in this title. (Code 1950, §§ 24-330, 24-338, 24-338.1, 24-339, 24-340, 24-341, 24-342, 24-345.8; 1952, c. 509; 1954, cc. 511, 523, 539; 1956, c. 525; 1962, c. 536; 1964, c. 557; 1970, c. 462, §§ 24.1-231, 24.1-234; 1972, c. 621; 1974, c. 428, § 24.1-233.1; 1978, c. 778; 1981, c. 425; 1988, cc. 624, 691; 1991, c. 3; 1993, c. 641; 2001, c. 799.)

The 2001 amendments. — The 2001 amendment by c. 799 rewrote the second paragraph, which formerly read: "Before the polls open, the chief officer of election shall post the copy of the absentee voter applicant list in the polling place."

Editor's note. — The cases cited below were decided under former law corresponding to this section.

Former § 24.1-234 puts imperative duty on officers. — Under former § 24.1-234 it is the imperative duty of the officers of election to count the votes of legal voters. They have no discretion except to deposit the ballots as directed and to count them. And the fact that the ballots were not counted and certified on the night of election, when they ought to have been counted, does not mean that the officers cannot be compelled thereafter to count them. *Moore v. Pullem*, 150 Va. 174, 142 S.E. 415 (1928).

Failure to ascertain right of voters is violation. — When officers of election, apparently in violation of the order of the circuit

court, counted all ballots cast by absent voters in a certain election precinct without reference to whether or not the voters were entitled to cast them, they violated the plain mandate of former Article 7 of Chapter 7 of Title 24.1. *Kidd v. Moore*, 152 Va. 139, 146 S.E. 287 (1929).

Mandamus lies for failure to deposit and count ballots. — Where the officers of election at a precinct failed to discharge a mandatory ministerial duty in refusing to count such of the ballots cast under this article as had been deposited by legal voters, they could be compelled by mandamus to discharge such duty as soon thereafter as possible. *Moore v. Pullem*, 150 Va. 174, 142 S.E. 415 (1928).

And court may order counting in election contest. — In a contested election case the trial court has plenary power to have legal ballots offered under the absent voter's law, which the officers of election refused to count and certify, counted. *Moore v. Pullem*, 150 Va. 174, 142 S.E. 415 (1928).

§ 24.2-712. Central absentee voter precincts; counting ballots. —

A. Notwithstanding any other provision of law, the governing body of each county or city may establish one or more central absentee voter precincts in the courthouse or other public buildings for the purpose of receiving, counting, and recording absentee ballots cast in the county or city. The decision to establish any absentee voter precinct shall be made by the governing body by ordinance; the ordinance shall state for which elections the precinct shall be used. The decision to abolish any absentee voter precinct shall be made by the governing body by ordinance. Immediate notification of either decision shall be sent to the State Board and the electoral board.

B. Each central absentee voter precinct shall have at least three officers of election as provided for other precincts. The number of officers shall be determined by the electoral board.

C. If any voter brings an unmarked ballot to the central absentee voter precinct on the day of the election, he shall be allowed to vote it. If any voter brings an unmarked ballot to the electoral board on or before the day of the election, he shall be allowed to vote it, and his ballot shall be delivered to the absentee voter precinct before the closing of the polls.

The officers at the absentee voter precinct shall determine any appeal by any other voter whose name appears on the absentee voter applicant list and who offers to vote in person. If the officers at the absentee voter precinct produce records showing the receipt of his application and the certificate of mailing for the ballot, they shall deny his appeal. If the officers cannot produce such records, the voter shall be allowed to vote in person at the absentee voter precinct and have his vote counted with other absentee votes. If the voter's appeal is denied, the provisions of § 24.2-708 shall be applicable, and the officers shall advise the voter that he may vote on presentation of a statement signed by him that he has not received an absentee ballot and subject to felony penalties for making false statements pursuant to § 24.2-1016.

D. Absentee ballots may be processed as required by § 24.2-711 by the officers of election at the central absentee voter precinct prior to the closing of the polls but the ballot box shall not be opened and the counting of ballots shall not begin prior to that time. In the case of punch card or mark sense ballots to be inserted in electronic counting equipment, the ballot box may be opened and the absentee ballots may be inserted in the counting equipment prior to the closing of the polls in accordance with procedures prescribed by the State Board, including procedures to preserve ballot secrecy, but no ballot count totals shall be initiated prior to that time.

As soon as the polls are closed in the county or city the officers of election at the central absentee voter precinct shall proceed to ascertain and record the vote given by absentee ballot and report the results in the manner provided for counting and reporting ballots generally in Article 4 (§ 24.2-643 et seq.) of Chapter 6 of this title.

E. The electoral board may provide that the officers of election for a central absentee voter precinct may be assigned to work all or a portion of the time that the precinct is open on election day subject to the following conditions:

1. The chief officer and the assistant chief officer, appointed pursuant to § 24.2-115 to represent the two political parties, are on duty at all times; and

2. No officer, political party representative, or other candidate representative shall leave the precinct after any ballots have been counted until the polls are closed and the count for the precinct is completed and reported. (1974, c. 428, § 24.1-233.1; 1978, c. 778; 1991, c. 3; 1993, c. 641; 1994, cc. 287, 742; 1998, cc. 549, 572.)

§ 24.2-713. Emergency authority of the Secretary of the State Board of Elections. — The provisions of this section shall apply in the case of an emergency that will not allow sufficient time for the distribution and handling of absentee ballot applications and absentee ballots, in accordance with the procedures of this title, for qualified voters who are unable to vote in person because of the emergency. The Secretary of the State Board of Elections shall have the authority to designate alternative methods and procedures to handle such applications and ballots to ensure that qualified voters have the opportunity to exercise their right to vote in emergency situations. The provisions of this section shall be applicable only in the case of an emergency declared by the Governor pursuant to Chapter 3.2 (§ 44-146.13 et seq.) of Title 44 or declared by the President of the United States or the governor of another state pursuant

to law and confirmed by the Governor by the executive order as an emergency for the purposes of this section. (1994, c. 240.)

CHAPTER 8.

RECOUNTS AND CONTESTED ELECTIONS.

Article 1.

Recounts.

Sec.

- 24.2-800. Recounts in all elections.
- 24.2-801. Petition for recount; recount court.
- 24.2-802. Procedure for recount.

Article 2.

Contested Elections.

- 24.2-803. Contest of election to General Assembly.
- 24.2-804. Contest of elections of Governor, Lieutenant Governor, and Attorney General.
- 24.2-805. Contest of elections of electors for President and Vice-President or primaries for United States Senate or statewide office.

Sec.

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ARTICLE 1.

Recounts.

§ 24.2-800. **Recounts in all elections.** — A. The provisions of this article apply to all elections held in the Commonwealth.

B. When there is between any candidate apparently nominated or elected and any candidate apparently defeated a difference of not more than one percent of the total vote cast for the two such candidates as determined by the State Board or the electoral board, the defeated candidate may appeal from the determination of the State Board or the electoral board for a recount of the vote as set forth in this article. In an election of electors for the President and Vice-President of the United States, the presidential candidate shall represent the vice-presidential candidate and slate of electors and be the party to the recount for purposes of this article.

C. When there is between the vote for a question and the vote against a question a difference of not more than fifty votes or one percent of the total vote cast for and against the question as determined by the State Board or the electoral board, whichever is greater, fifty or more voters qualified to vote on the question, by signing and filing their petition, may appeal from the determination of the State Board or the electoral board for a recount of the vote as set forth in this article. (1979, c. 293, § 24.1-249; 1981, c. 570; 1993, c. 641.)

Law Review. — For survey of Virginia law the year 1978-1979, see 66 Va. L. Rev. 301 on governmental services and social welfare for (1980).

§ 24.2-801. **Petition for recount; recount court.** — The petition for a recount shall be filed within ten days from the day the State Board or the

electoral board certifies the result of the election under § 24.2-679 or § 24.2-671, but not thereafter. The petition shall be filed in the Circuit Court of the City of Richmond in the case of any statewide office and in the circuit court of the county or city in which the candidate being challenged resides in the case of any other office. The petition shall be filed in the Circuit Court of the City of Richmond in the case of any statewide referendum and in the circuit court of any county or city comprising a part of the election district in the case of any other referendum.

The petition shall set forth the results certified by the Board or electoral board and shall request the court to have the ballots in the election recounted or, in the case of mechanical or direct electronic voting devices, the vote redetermined.

In an election for office, a copy of the petition shall be served on the candidate apparently nominated or elected as provided under § 8.01-296 and within ten days after the Board or electoral board has certified the results of such election. In a referendum, a copy of the petition shall be so served on the governing body or chief executive officer of the jurisdiction in which the election was held.

The chief judge of the circuit court in which a petition is filed shall promptly notify the Chief Justice of the Supreme Court of Virginia, who shall designate two other judges to sit with the chief judge, and the court shall be constituted and sit in all respects as a court appointed and sitting under §§ 24.2-805 and 24.2-806. (1979, c. 293, § 24.1-249; 1981, c. 570; 1993, c. 641.)

Law Review. — For survey of Virginia law the year 1978-1979, see 66 Va. L. Rev. 301 on governmental services and social welfare for (1980).

§ 24.2-802. Procedure for recount. — A. On or before September 1, 2001, the State Board of Elections shall promulgate standards for (i) the proper handling and security of voting and counting devices, ballots, and other materials required for a recount, (ii) accurate determination of votes based upon objective evidence and taking into account the counting device and form of ballots approved for use in the Commonwealth, and (iii) any other matters that will promote a timely and accurate resolution of the recount. The chief judge of the circuit court or the full recount court may, consistent with State Board of Elections standards, resolve disputes over the application of the standards and direct all other appropriate measures to ensure the proper conduct of the recount.

B. Within seven days of the filing of the petition, the chief judge of the circuit court shall call a preliminary hearing at which (i) motions may be disposed of and (ii) the rules of procedure may be fixed, both subject to review by the full court. As part of the preliminary hearing, the chief judge may permit the petitioner and his counsel, together with each other party and his counsel and at least two members of the electoral board and the custodians, to examine any mechanical or direct electronic voting device of the type that prints returns when the print-out sheets are not clearly legible. The petitioner and his counsel and each other party and their counsel under supervision of the electoral board and its agents shall also have access to pollbooks and other materials used in the election for examination purposes, provided that individual ballots cast in the election shall not be examined at the preliminary hearing. The chief judge during the preliminary hearing shall review all security measures taken for all ballots and voting devices and direct, as he deems necessary, all appropriate measures to ensure proper security to conduct the recount.

The chief judge, subject to review by the full court, may set the place or places for the recount and may order the delivery of election materials to a central location and the transportation of voting devices to a central location in each county or city under appropriate safeguards.

After the full court is appointed under § 24.2-801, it shall call a hearing at which all motions shall be disposed of and the rules of procedure shall be fixed finally. The court shall call for the advice and cooperation of the State Board or any local electoral board, as appropriate, and such boards shall have the duty and authority to assist the court. The court shall fix procedures that shall provide for the accurate determination of votes in the election. Commencing upon the filing of the recount, nothing shall prevent the discovery or disclosure of any evidence that could be used pursuant to § 24.2-803 in contesting the results of an election.

C. The court shall permit each candidate, or petitioner and governing body or chief executive officer, to select an equal number of the officers of election to be recount officials and to count ballots, or in the case of mechanical or direct electronic voting devices to redetermine the vote. The number shall be fixed by the court and be sufficient to conduct the recount within a reasonable period. The court may permit each party to the recount to submit a list of alternate officials in the number the court directs. There shall be at least one team of recount officials to recount paper ballots and to redetermine the vote cast on mechanical or direct electronic devices of the type that prints returns for the election district at large in which the recount is being held. There shall be at least one team from each locality in the election district to redetermine the vote on other types of mechanical voting devices. There shall be at least one team from each locality using electronic counting devices to insert the ballots into one or more counting devices. The counting devices shall be programmed to count only votes cast for parties to the recount or for or against the question in a referendum recount. Each team shall be composed of one representative of each party.

The court may provide that if, at the time of the recount, any recount official fails to appear, the remaining recount officials present shall appoint substitute recount officials who shall possess the same qualifications as the recount officials for whom they substitute. The court may select pairs of recount coordinators to serve for each county or city in the election district who shall be members of the county or city electoral board and represent different political parties. The court shall have authority to summon such officials and coordinators. On request of a party to the recount, the court shall allow each party to appoint one representative observer for each team of recount officials. The expenses of its representatives shall be borne by each party.

D. The court (i) shall supervise the recount and (ii) may require delivery of any or all pollbooks used, any or all ballots cast at the election, and absentee ballots sought to be cast but ruled invalid or may assume supervision thereof through the recount coordinators and officials. In the case of ballots voted by insertion into electronic counting devices, the court shall order that the devices be programmed, if possible, to identify ballots on which the device detected that a voter voted for a lesser number of candidates for an office than the number he was lawfully entitled to vote and ballots on which a voter voted for a greater number of candidates than the number he was lawfully entitled to vote, and that all ballots be reinserted in the counting device to separate such undervoted and overvoted ballots. The court shall permit the parties, recount officials, and counsel to examine all paper ballots cast in the election, ballots cast on mechanical voting devices, undervoted and overvoted ballots counted on electronic counting devices, and all absentee ballots sought to be cast but ruled invalid, for the purpose of ascertaining the number of ballots cast for each of the party candidates or for or against the question. At the conclusion of the recount of each precinct, the recount officials shall write down (a) in the case of mechanical or direct electronic voting devices the redetermination of the vote and (b) the number of valid ballots cast, this number being obtained from the ballots cast in the precinct, or from the ballots cast as shown on the

statement of results if the ballots cannot be found, for each of the two candidates or for and against the question. They shall submit the ballots or the statement of results used, as to the validity of which questions exist, to the court. The written statement of any one recount official challenging a ballot shall be sufficient to require its submission to the court. If, on all mechanical or direct electronic voting devices, the number of persons voting in the election, or the number of votes cast for the office or on the question, totals more than the number of names on the pollbooks of persons voting on the devices, the figures recorded by the devices shall be accepted as correct.

Where punch card voting devices are used, the machine count shall be the official count and shall be attempted first. Where the prescribed counting machine will not accept an individual ballot, the following standards shall apply in determining whether a ballot has been properly voted and should be counted for the office for which the recount is conducted. A chad is the small piece of a punch card ballot that, when removed by the voter in the voting process, leaves a hole that is recognizable by a ballot tabulating machine. A ballot on which the chad indicating the selection of a candidate is broken or separated from the card at two or more corners shall be deemed a vote and counted; a chad on which only one corner is broken or separated from the card shall not be considered a vote. No other depression, dimple, or other mark on the ballot shall be counted as a vote. When a voter casts a vote for a greater number of candidates than the number for which he was lawfully entitled to vote, it shall be deemed an overvote and no vote shall be counted for any candidate for that office. On any ballot on which two or more corners of the chad indicating the selection of a candidate have been broken or separated from the card and the voter has also cast a vote for another candidate for the same office, the partially punched chad also shall be deemed a vote and, if the voter has cast more votes than the number for which he was lawfully entitled to vote, the ballot shall be deemed an overvote for that office.

At the conclusion of the recount of all precincts, after allowing the parties to inspect the questioned ballots, and after hearing arguments, the court shall rule on the validity of all questioned ballots and votes. After determining all matters pertaining to the recount and redetermination of the vote as raised by the parties, the court shall certify to the State Board and the electoral board or boards (1) the vote for each party to the recount and declare the person who received the higher number of votes to be nominated or elected, as appropriate, or (2) the votes for and against the question and declare the outcome of the referendum.

E. Costs of the recount shall be assessed against the counties and cities comprising the election district when (i) the candidate petitioning for the recount is declared the winner; (ii) the petitioners in a recount of a referendum win the recount; or (iii) there was between the candidate apparently nominated or elected and the candidate petitioning for the recount a difference of not more than one-half of one percent of the total vote cast for the two such candidates as determined by the State Board or electoral board prior to the recount. Otherwise the costs of the recount shall be assessed against the candidate petitioning for the recount or the petitioners in a recount of a referendum. If more than one candidate petitions for a recount, the court may assess costs in an equitable manner between the counties and cities and any such candidate if both are liable for costs under this subsection. Costs incurred to date shall be assessed against any candidate or petitioner who defaults or withdraws his petition.

F. The court shall determine the costs of the recount subject to the following limitations: (i) no per diem payment shall be assessed for salaried election officials; (ii) no per diem payment to officers of election serving as recount officials shall exceed two-thirds of the per diem paid such officers by the county

or city for service on election day; and (iii) per diem payments to alternates shall be allowed only if they serve.

G. Any petitioner who may be assessed with costs under subsection E of this section shall post a bond with surety with the court in the amount of ten dollars per precinct in the area subject to recount. If the petitioner wins the recount, the bond shall not be forfeit. If the petitioner loses the recount, the bond shall be forfeit only to the extent of the assessed costs. If the assessed costs exceed the bond, he shall be liable for such excess.

H. The recount proceeding shall be final and not subject to appeal. (1979, c. 293, § 24.1-250; 1980, c. 639; 1981, c. 570; 1982, c. 650; 1983, c. 461; 1984, c. 480; 1993, c. 641; 2000, cc. 938, 1057; 2001, cc. 639, 641, 646.)

Editor's note. — Acts 2001, c. 639, cl. 2, provides: "That the State Board of Elections shall recommend to the General Assembly permanent standards in accordance with the provisions of subdivision A (i) of § 24.2-802 for possible enactment into law at the 2002 Session of the General Assembly. The State Board shall submit its recommendations to the Committee on Privileges and Elections on or before December 1, 2001."

The 2000 amendments. — The 2000 amendment by c. 938 added the third and the final sentences in the first paragraph of subsection A.

The 2000 amendments by c. 1057 added the third and fourth sentences in the first paragraph of subsection A; added the third and fourth sentences in the third paragraph of subsection A; added the present second sentence in subsection C; deleted the former sixth sentence in subsection C, which read: "For purposes of redetermining the vote cast by any mechanical or direct electronic voting device that prints returns, the printed return sheets shall be sufficient evidence of the count"; and substituted "After determining all matters pertaining to the recount and redetermination of the vote as raised by the parties," for "By an appropriate order" at the beginning of the second sentence in the second paragraph of subsection C.

The 2001 amendments. — The 2001

amendment by c. 639 added present subsection A, and redesignated former subsections A through G as present subsections B through H.

The 2001 amendment by c. 641, also added present subsection A, and redesignated former subsections A through G as present subsections B through H; in subsection B, in the first paragraph, deleted the former third sentence, which formerly read: "If the number of absentee votes cast in the election is sufficient to change the result of the election, the petitioner and his counsel and each other party and their counsel, under supervision of the electoral board and its agents, shall also have access to absentee ballots cast in the election for examination purposes," and inserted "provided that individual ballots cast in the election shall not be examined at the preliminary hearing" at the end of the present third sentence; in subsection D, in the first paragraph, added the second sentence, in the third sentence, substituted "paper ballots cast in the election" for "ballots cast in the election, including paper ballots," and inserted "undervoted and overvoted," and substituted "(a)" for "(i)" and "(b)" for "(ii)," and substituted "(1)" for "(i)" and "(2)" for "(ii)" in the second paragraph of subsection D; and substituted "subsection E of this section" for "subsection D of this section" in subsection G.

The 2001 amendment by c. 646 added the second paragraph in subsection C (now subsection D).

ARTICLE 2.

Contested Elections.

§ 24.2-803. **Contest of election to General Assembly.** — A. This section applies to any general or special election of members to the General Assembly.

B. A contest of the election of any member to the General Assembly may be initiated by an unsuccessful candidate in the election, referred to hereafter as the contestant.

To initiate a contest, the contestant shall give written notice, in the manner provided in subsection D, of his intent to contest the election to the person or persons apparently elected, referred to hereafter as the contestee, and to the Clerk of the House of Delegates if he is contesting a House election or of the Senate if he is contesting a Senate election, no later than thirty days following

the date of the election or three days after the conclusion of a recount, whichever is later.

The notice shall state the grounds on which the contestant intends to contest the election. The grounds shall include (i) objections to the eligibility of the contestee based on specific allegations, (ii) objections to the conduct or results of the election accompanied by specific allegations which, if proven true, would have a probable impact on the outcome of the election, or (iii) both.

The notice shall state that an answer by the contestee must be filed with the clerk of the appropriate house within ten days following service of the notice. The contestant shall sign and verify the notice by his oath or affirmation.

C. Within ten days after service of the contestant's notice on the contestee, the contestee shall file with the clerk of the appropriate house a written answer. His answer shall admit or deny the allegations on which the contestant relies, or state that he has no knowledge or information concerning an allegation which shall be deemed denial, and state any other defenses, in law or fact, on which he relies. The contestee shall sign and verify his answer by his oath or affirmation.

D. The notice of intent to contest shall be filed by the contestant with the clerk of the appropriate house and copies thereof served by the contestant as provided under § 8.01-296 on each contestee. The answer, petition, and any reply and copies thereof shall be filed with the appropriate clerk, and copies shall be served on the opposing party or his counsel, if any, in the manner prescribed by Rule 1:12 of the Rules of the Supreme Court of Virginia.

After service of the notice of intent, any party, after reasonable notice to the other party or parties, shall be authorized to take depositions to sustain or invalidate the election. The contestant shall complete the taking of depositions to submit with his petition at any time within twenty days following the date of the notice of intent to contest the election, and the contestee shall complete the taking of his depositions within thirty days following the date of the notice of intent to contest the election. By written stipulation of the parties, the testimony of any witness may be filed in the form of an affidavit by the witness within the same time limitations prescribed by the taking of depositions.

Subpoenas for witnesses shall be issued by the clerk of the circuit court of the county or city in which the contestee resides on the application of either party. Witnesses shall be entitled to the same allowances and privileges, and be subject to the same penalties, as witnesses summoned to attend the courts.

Every deposition shall be taken before a person authorized by law to administer oaths, who shall certify and seal the deposition in the same manner as in judicial civil proceedings, and file the same with the clerk of the appropriate house.

E. A written petition shall be filed by the contestant with the clerk of the appropriate house (i) within ten days following the filing of the notice of intent to contest the election if the contested election was held at a November general election and (ii) within ten days following the date of the filing of the notice of intent to contest the election or within two days following the commencement of the next session of the General Assembly, whichever is later, if the election was held on a different date. The contestee may file a written reply to the petition within five days following its service on him.

No affidavit may be made a part of, or filed in support of, a petition or reply thereto unless the affidavit has previously been filed with the clerk of the appropriate house, pursuant to the written stipulation of the parties or their counsel, on or before the date established by subsection D for the completion of the taking of depositions by the proponent of the affidavit.

F. If the election was held during a regular session of the General Assembly, the times for filing the notice of intent to contest, the answer, petition, and reply and for taking depositions and affidavits shall be set by the Committee on

Privileges and Elections of the appropriate house. The Committee may consider the contestant's and contestee's recommendations for the procedural schedule.

G. The clerk shall refer the notice, answer, petition, reply, depositions, and affidavits to the Committee on Privileges and Elections, which documents shall constitute the record in the contest.

Unless another committee has been designated by the rules of the house to hear contest matters, the Committee on Privileges and Elections shall hear the contest and conduct such investigation as has been directed by resolution of its house. It shall report its findings and recommendations to the house for its action.

H. The house, in its judgment, may find for the contestant and declare him elected, find for the contestee and confirm his election, or declare the election void and order a writ of election as in other cases of vacancy. If the house finds a tie vote has occurred, it shall direct a determination by lot in accordance with § 24.2-674, but no right to a recount shall be permitted. If the house finds, by two-thirds vote of the house that the contestant has prosecuted the election contest in bad faith, the house may order the contestant to pay to the contestee a sum that is not more than the contestee's actual costs of defending against the contest, including, but not limited to, reasonable attorneys' fees, expert witnesses' fees, and such costs as would be taxable in an action at law. (1981, c. 570, § 24.1-236.1; 1993, c. 641; 1998, c. 866; 2000, c. 1057.)

The 2000 amendments. — The 2000 amendment by c. 1057 in the second paragraph of subsection B, substituted "no later than thirty" for "within twenty," and added "or three days after the conclusion of a recount, whichever is later" at the end of the paragraph; in the second sentence of the second paragraph in subsection D, substituted "twenty" for "thirty"

and substituted "thirty" for "forty-five," and inserted "notice of intent to contest the" twice; in subsection E, substituted "ten" for "two" and substituted "filing of the notice of intent to contest the election" for "second Wednesday in January" in clause (i); and substituted "ten" for "twenty" and inserted "filing of the notice of intent to contest the" in clause (ii).

§ 24.2-804. Contest of elections of Governor, Lieutenant Governor, and Attorney General. — In any election for Governor, Lieutenant Governor, or Attorney General, notice of the intent to contest the election shall be filed with the Clerk of the House of Delegates as prescribed in § 24.2-803. The provisions of § 24.2-803 shall govern standing, notice of intent to contest, answers, service of process, evidence, the petition, procedures, and relief except (i) that in a contest of an election held at the November general election the petition shall be filed within two days following the commencement of a special session of the General Assembly called for the purpose of hearing the contest or of the next regular session of the General Assembly, whichever first occurs, and (ii) that the final determination shall be made by the General Assembly, both houses sitting in joint session in the hall of the House of Delegates, with the Speaker of the House of Delegates presiding. (Code 1950, §§ 24-427 through 24-429; 1970, c. 462, § 24.1-237; 1981, c. 570; 1993, c. 641.)

Cross references. — For constitutional provision as to contesting election of Governor, see Va. Const., Art. V, § 2.

§ 24.2-805. Contest of elections of electors for President and Vice-President or primaries for United States Senate or statewide office. — In an election of electors for the President and Vice-President of the United States, or a primary for the United States Senate or any statewide office, the proceeding to contest shall be in the Circuit Court of the City of Richmond before a special court composed of the chief judge of such circuit court and two

circuit court judges of circuits not contiguous to the City of Richmond appointed by the Chief Justice of the Supreme Court of Virginia, or, in the event of his inability to act, then by the next senior justice, who shall at the time of appointment set the date for trial.

If the chief judge of the Circuit Court of the City of Richmond is absent, unable to sit in the proceeding, or recuses himself, the clerk of the court shall at once certify that fact to the Chief Justice. Then the Chief Justice or the associate justice acting in his stead shall appoint a third judge, who shall be, if possible, a judge of the Circuit Court of the City of Richmond or an adjoining circuit. (Code 1950, § 24-393; 1952, c. 489; 1970, c. 462, § 24.1-238; 1981, c. 570; 1993, c. 641.)

§ 24.2-806. Contest of other primaries and elections. — In a primary for the United States House of Representatives, the Virginia Senate, the House of Delegates, or any county, city, town, or district office, or an election to any county, city, town, or district office, the proceeding to contest shall be in the circuit court of the county or city in which the challenged candidate resides. The proceeding shall be before a special court composed of the chief judge of such circuit court and two circuit court judges of circuits remote from the county or city in which such candidate resides, appointed by the Chief Justice of the Supreme Court of Virginia, or, in the event of his inability to act, then by the next senior justice, who shall at the time of appointment set the date for trial.

If the chief judge of the circuit court of the city or county in which the candidate resides is absent, unable to sit in the proceeding, or recuses himself, the clerk of the court shall at once certify that fact to the Chief Justice. Then the Chief Justice or the associate justice acting in his stead shall appoint a third judge, who shall be, if possible, a judge of the same or an adjoining circuit. (Code 1950, § 24-394; 1952, c. 489; 1970, c. 462, § 24.1-239; 1981, c. 570; 1987, c. 341; 1993, c. 641.)

Proceedings are judicial and privileged.
— Proceedings to contest a primary election under former § 24-394 are judicial proceedings and absolutely privileged. The nature of the proceeding is fixed by statute, and is not changed by the failure of the court to act at its next term or by any number of continuances.

When filed in time the character of a petition to contest a primary election is in nowise changed by the failure of the court to act, regardless of the reasons for such failure. *Penick v. Ratchliffe*, 149 Va. 618, 140 S.E. 664 (1927) (decided under prior law).

§ 24.2-807. Contest only on complaint of unsuccessful party; contents of complaint. — The provisions of this section and §§ 24.2-808 through 24.2-813 govern contests conducted pursuant to §§ 24.2-805 and 24.2-806. The contest shall be initiated only by a written complaint of one or more of the unsuccessful candidates. The complaint shall contain (i) objections to the eligibility of the contestee based on specific allegations, (ii) objections to the conduct or results of the election accompanied by specific allegations which, if proven true, would have a probable impact on the outcome of the election, or (iii) both.

In an election of electors for the President and Vice-President of the United States, the presidential candidate shall represent the vice-presidential candidate and slate of electors and be the party to the contest for purposes of this article. (Code 1950, §§ 24-430, 24-432; 1970, c. 462, § 24.1-240; 1973, c. 30; 1981, c. 570; 1993, c. 641.)

Former § 24.1-240 is in pari materia with former § 15.1-830 and former § 24.1-76 (see now § 24.2-227, and is to be con-

strued in connection therewith. *Mitchell v. Witt*, 98 Va. 459, 36 S.E. 528 (1900) (decided under prior law).

Proceeding is neither at law nor in equity. — A proceeding to contest a primary election is neither an action at law nor a suit in equity, but is based upon statute. *Penick v. Ratcliffe*, 149 Va. 618, 140 S.E. 664 (1927) (decided under prior law).

§ 24.2-808. Time of filing and service of complaint; enlargement or amendment of complaint. — The contestant shall file his complaint in the clerk's office of the circuit court within thirty days following the date of the election in the case of a general election, and within ten days following the date of the election in case of a primary election or special election held on a date other than that of a general election. A copy of the complaint shall be served by the contestant as provided under § 8.01-296 on each contestee; otherwise the complaint shall not be valid.

No enlargement or amendment of the complaint, except as to form, shall be permitted save by leave of court as provided in Rule 1:8 of the Rules of the Supreme Court of Virginia. (Code 1950, § 24-434; 1952, c. 489; 1970, c. 462, § 24.1-241; 1981, c. 570; 1993, c. 641.)

There is no requirement that the complaint be filed prior to the time when it is served on the defendant, and where it was first served and subsequently filed on the same day the service was valid. *Kirk v. Carter*, 202 Va. 335, 117 S.E.2d 135 (1960) (decided under prior law).

§ 24.2-809. Filing answer; contents; enlargement or amendment of answer. — The contestee shall, within ten days after the complaint is served on him, file in the clerk's office an answer, in which he shall admit or deny the allegations on which the contestant relies, or state that he has no knowledge or information concerning an allegation which shall be deemed denial, and state any other defenses, in law or fact, on which he relies. If no answer is filed within the time prescribed, the contestee shall not be heard to assert any claim or objection which is required by this section to be stated in the answer.

No enlargement or amendment of the answer, except as to form, shall be permitted save by leave of court as provided in Rule 1:8 of the Rules of the Supreme Court of Virginia. (Code 1950, § 24-435; 1952, c. 489; 1970, c. 462, § 24.1-242; 1981, c. 570; 1993, c. 641.)

§ 24.2-810. Taking depositions and deciding contests. — After service of a copy of the complaint and after reasonable notice to the other party or parties, any party shall be authorized to take depositions to sustain or invalidate the election. The proceedings shall take precedence over all other business of the court or of any of the judges and shall be heard and determined as soon as possible. The contest shall be heard and determined without a jury, on the testimony thus taken and on any other legal testimony that may be adduced by any party. In judging the contest, the court shall proceed on the merits thereof and decide the same according to the Constitution and statutes of the Commonwealth. (Code 1950, § 24-436; 1952, c. 489; 1970, c. 462, § 24.1-243; 1981, c. 570; 1993, c. 641.)

Purpose of section. — Under former § 24-436, it was declared that the contest shall be heard upon its merits. It is the plain purpose of the legislature that a contest should be dealt with in no technical way. *Penick v. Ratcliffe*, 149 Va. 618, 140 S.E. 664 (1927) (decided under prior law).

§ 24.2-811. Costs and issuance of certificate of election. — When the contest is decided, costs shall be taxed against the candidate filing the complaint if he is unsuccessful, or, if he is successful, against the counties and cities included in the area in which the election was held. A certificate of

election shall be granted to the successful party, unless he has already received one. (Code 1950, §§ 24-395.3, 24-437; 1952, c. 489; 1970, c. 462, § 24.1-244; 1993, c. 641.)

§ 24.2-812. Proceedings when court decides no valid election has been held. — If the court decides that there has been no valid election of any person, it shall declare the election void and the vacancy shall be filled in conformity with §§ 24.2-226 and 24.2-227. (Code 1950, § 24-438; 1970, c. 462, § 24.1-245; 1993, c. 641.)

Office is to be filled as if there were a vacancy. — The legal effect of former § 24-438 is to declare that upon the conclusion of a contested election case by the decision that the

election was invalid, the office should be filled as if there were a vacancy. *Frantz v. Davis*, 144 Va. 320, 131 S.E. 784 (1926) (decided under prior law).

§ 24.2-813. Proceedings in contest for nominee. — In deciding any contest of a primary election, if the court can determine the candidate who has received a plurality of valid votes in the primary, it shall certify the name of that candidate to the State Board and the proper electoral board or boards. The candidate so certified shall be the party nominee and his name shall be printed on the official ballot for the election for which the primary was held. The name of no other person who was a candidate for the contested office in the primary shall be printed on the official ballots as a candidate for that office.

If the court is unable to determine which primary candidate received a plurality of valid votes or if the court decides that there has been no valid election, the party nominee shall be determined in accordance with the provisions of § 24.2-539. (Code 1950, § 24-395.1; 1952, c. 489; 1970, c. 462, § 24.1-246; 1993, c. 641.)

§ 24.2-814. Contest following recount. — A candidate in a primary or an election to office, who was originally declared a winner and subsequently loses as the result of a recount, may file either (i) notice of his intent to contest the result in accordance with § 24.2-803 or § 24.2-804 or (ii) a written complaint pursuant to § 24.2-805 or § 24.2-806. Such notice or complaint shall be filed within ten days following the date of the entry of the order of the recount court pursuant to subsection D of § 24.2-802.

In the case of a contest pursuant to § 24.2-803 or § 24.2-804, the times for filing the answer, petition, and reply and for taking depositions and affidavits shall be set by the Committee on Privileges and Elections of the appropriate house. The Committee may consider the contestant's and contestee's recommendations for the procedural schedule. (1988, c. 714, § 24.1-241.1; 1993, c. 641; 2001, cc. 639, 641.)

Editor's note. — Acts 2001, c. 639, cl. 2, provides: "That the State Board of Elections shall recommend to the General Assembly permanent standards in accordance with the provisions of subdivision A (i) of § 24.2-802 for possible enactment into law at the 2002 Session of the General Assembly. The State Board shall submit its recommendations to the Committee

on Privileges and Elections on or before December 1, 2001."

The 2001 amendments. — The 2001 amendment by cc. 639 and 641 are identical, and substituted "subsection D of § 24.2-802" for "subsection C of § 24.2-802" at the end of the first paragraph.

CHAPTER 9.

CAMPAIGN FINANCE DISCLOSURE ACT.

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- 24.2-928. (Effective July 1, 2002) Reporting of certain violations.

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- 24.2-929. (Effective until July 1, 2002) Penalties for violations of chapter.
- 24.2-929. (Effective July 1, 2002) Penalties for violations of chapter.
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ARTICLE 1.

General Provisions.

§ 24.2-900. Elections to which chapter applicable; chapter exclusive. — The provisions of this chapter shall apply to all elections, including

referenda, and to nominating conventions, mass meetings, and other methods to nominate a political party candidate for public office, except elections for (i) members of the United States Congress, (ii) town office in a town with a population of less than 25,000, (iii) directors of soil and water conservation districts, or (iv) political party committees. Every candidate for the United States Congress shall file with the State Board certified copies of all reports of campaign contributions and expenditures required by the laws of the United States. Except as provided in § 24.2-903.1, this chapter shall constitute the exclusive and entire campaign finance disclosure law of the Commonwealth, and elections to which the chapter applies shall not be subject to further regulation by local law. (1970, c. 462, § 24.1-251; 1972, c. 620; 1973, c. 30; 1980, c. 639; 1982, c. 650; 1993, cc. 641, 715.)

Cross references. — As to prohibited conduct under the State and Local Government Conflict of Interests Act, see § 2.2-3103. As to conduct prohibited by the General Assembly Conflicts of Interest Act, see § 30-103.

Editor's note. — Acts 1993, c. 715 amended former § 24.1-251, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above. In accordance with c. 715, "Except as provided in § 24.2-903.1" was inserted in the third sentence.

Law Review. — For survey of election law reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970). For a symposium, "The Law and Economics of Elections," see 85 Va. L. Rev. 1533 (1999). For an article, "Governing Through Intermediaries," see 85 Va. L. Rev. 1627 (1999).

For a commentary, "Pluralism With a Corporate Face: A Comment On Issacharoff and Ortiz," see 85 Va. L. Rev. 1671 (1999). For a commentary, "Political Parties as Donative Intermediaries," see 85 Va. L. Rev. 1683 (1999). For an article, "Politics By Other Means," see 85 Va. L. Rev. 1697 (1999). For a commentary, "It's Not Just Talk," see 85 Va. L. Rev. 1725 (1999). For a commentary, "Market Failures and Failures of Markets," see 85 Va. L. Rev. 1745 (1999). For an article, "The Issue of Issue Advocacy: An Economic, Political, and Constitutional Analysis," see 85 Va. L. Rev. 1761 (1999). For a commentary, "Taking Issue With Issue Advocacy," see 85 Va. L. Rev. 1793 (1999). For a commentary, "On the Issue of Issue Advocacy," see 85 Va. L. Rev. 1803 (1999).

§ 24.2-901. Definitions. — A. As used in this chapter, unless the context requires a different meaning:

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

"*Contribution*" means money and services of any amount, and any other thing of value over \$100, given, advanced, promised, loaned, or in any other way provided to a candidate, campaign committee, political committee, inaugural committee, or person for the purpose of influencing the outcome of an election or defraying the costs of the inauguration of a Governor, Lieutenant Governor, or Attorney General. "Contribution" includes money, services, or things of value in any way provided by a candidate to his own campaign and the payment by the candidate of any primary filing fee.

"*Expenditure*" means money and services of any amount, and any other thing of value over \$100, paid, promised, loaned, provided, or in any other way disbursed by any candidate, campaign committee, political committee, inaugural committee, or person for the purpose of influencing the outcome of an election or defraying the costs of the inauguration of a Governor, Lieutenant Governor, or Attorney General.

"*Inaugural committee*" means any committee which anticipates receiving contributions or making expenditures, from other than publicly appropriated funds, for the inauguration of the Governor, Lieutenant Governor, or Attorney General and related activities.

"*Independent expenditure*" means an expenditure made by any person or political committee which is not made to, controlled by, coordinated with, or

made upon consultation with a candidate, his campaign committee, or an agent of the candidate or his campaign committee.

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

"Political action committee" means any organization, other than a campaign committee or political party committee, established or maintained in whole or in part to receive and expend contributions for political purposes.

"Political committee" means any state political party committee, congressional district political party committee, county or city political party committee for a county or city with a population of more than 100,000, organized political party group of elected officials, political action committee, other committee, person or group of persons which receives contributions or makes expenditures for the purpose of influencing the outcome of any election. The term shall not include: (i) a campaign committee; (ii) a political party committee exempted pursuant to § 24.2-911; or (iii) a person who receives no contributions from any source and whose only expenditures are made solely from his own funds and are either contributions made by him which are reportable by the recipient pursuant to Article 4 (§ 24.2-914 et seq.) of this chapter or independent expenditures which are reportable by him to the extent required by subsection B of § 24.2-910, or a combination of such reportable contributions and independent expenditures.

B. For the purpose of applying the filing and reporting requirements of Article 3 (§ 24.2-908 et seq.) and Article 4 of this chapter, the terms "person," "political action committee," and "political committee" shall not include an organization holding tax-exempt status under § 501 (c) (3) of the United States Internal Revenue Code which, in providing information to voters, does not advocate or endorse the election or defeat of a particular candidate, group of candidates, or the candidates of a particular political party. (1970, c. 462, § 24.1-255; 1975, c. 515, § 24.1-254.1; 1981, c. 425, § 24.1-254.2; 1983, c. 119; 1988, c. 616; 1991, cc. 9, 474, 709, § 24.1-254.3; 1993, cc. 641, 776, 921; 1994, c. 510; 1996, cc. 405, 1042.)

Editor's note. — Acts 1993, cc. 776 and 921 amended former § 24.1-254.1, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above. In accordance with cc. 776 and 921, which were identical, the language beginning "congressional district political party committee" and ending "elected officials" was inserted in, "district, county, or city" preceding "political party committee" was deleted from, and "exempted pursuant to § 24.2-911" was added to the paragraph defining "Political committee."

"For the purpose of influencing the outcome of an election" as used in this section, §§ 24.2-910 and 24.2-914, as well as its implication for terms used in § 24.2-908, may be narrowly construed to limit the application of those statutes to groups that expressly advocate the election or defeat of a clearly identified candidate. *Virginia Soc'y for Human Life, Inc. v. Caldwell*, 256 Va. 151, 500 S.E.2d 814 (1998).

Narrowing construction to definition of "political committee." — A group that en-

gages solely in issue advocacy and doesn't receive "contributions" or make "expenditures" to expressly advocate the election or defeat of a clearly identified candidate is not a "political committee" as defined in this section. *Virginia Soc'y for Human Life, Inc. v. Caldwell*, 256 Va. 151, 500 S.E.2d 814 (1998).

Even if organizations which lack 26 U.S.C. § 501(c)(3) status under the Internal Revenue Code, but which nonetheless provide information to voters that "does not advocate or endorse the election or defeat of a particular candidate," are subsumed within the definition of "political committee," under the narrowing construction, such groups would be subject to its application elsewhere in the act only if their activities were to exceed the bounds of issue advocacy. *Virginia Soc'y for Human Life, Inc. v. Caldwell*, 256 Va. 151, 500 S.E.2d 814 (1998).

Applied in Virginia Soc'y for Human Life, Inc. v. Caldwell, 906 F. Supp. 1071 (W.D. Va. 1995); *Virginia Soc'y for Human Life, Inc. v. Caldwell*, 152 F.3d 268 (4th Cir. 1998).

§ 24.2-902. Services and things of value. — In determining the value of services or things of value for the reporting purposes of this chapter, a reasonable value shall be designated therefor and the basis for arriving at such designated value shall be stated in all reports. Services shall not be deemed to include personal services voluntarily rendered for which no compensation is asked or given. (1970, c. 462, § 24.1-255; 1975, c. 515; 1981, c. 425; 1983, c. 119; 1988, c. 616; 1991, c. 9; 1993, c. 641.)

§ 24.2-903. Summary of election laws; forms. — The State Board shall summarize the provisions of the election laws relating to campaign contributions and expenditures and provide for distribution of this summary and prescribed forms to each candidate, person, or committee on request or upon their first filing with the State Board pursuant to this chapter, whichever occurs first. The Board shall designate the form of the report of contributions and expenditures which shall be the only such form used in complying with the provisions of this chapter. The Board shall also prescribe a separate form for the required reporting of certain large contributions and expenditures pursuant to § 24.2-919.

The State Board shall provide, with the summary required by this section, instructions for persons filing reports pursuant to this chapter to assist them in completing the reports. The instructions shall include directions for the reporting of candidate primary filing fees. (1970, c. 462, § 24.1-252; 1975, c. 515; 1983, c. 119; 1992, c. 447; 1993, c. 641; 1996, c. 405.)

§ 24.2-903.1: Expired.

Editor's note. — This section was enacted by Acts 1993, c. 715, and expired by its own terms January 1, 1996.

ARTICLE 2.

Candidates and Campaign Committees.

§ 24.2-904. Appointment of campaign treasurer; designation of campaign committee and depository. — A. Upon accepting any contribution for his candidacy, each candidate for nomination or election shall appoint a single campaign treasurer and may designate not more than one campaign committee to receive all contributions and make all expenditures for him or on his behalf in connection with his nomination or election and to file the reports required by this chapter. The payment of a primary filing fee by the candidate constitutes the acceptance of a contribution for the purposes of this section. At the same time he shall designate a campaign depository in a financial institution within the Commonwealth. He shall provide, on a form prescribed by the State Board, the name and address of the campaign treasurer, the name of the financial institution and account number for his campaign depository, and, if one, the name of the campaign committee.

He shall file the form with the (i) electoral board of the county or city in which he resides if he is a candidate for local office, (ii) electoral board of the county or city in which he resides and the State Board if he is a candidate for the General Assembly, or (iii) State Board if he is a candidate for statewide office. Every treasurer so appointed shall accept the appointment, in writing on the form, prior to the filing thereof. No individual shall act as treasurer unless the required statement of appointment shall have been filed. No individual shall be appointed or act as treasurer in any election who is not a qualified voter of the Commonwealth. The same person may serve as campaign treasurer for more than one candidate.

B. In the event of the death, resignation, removal, or change of the treasurer, the candidate shall designate a successor and file the name and address of the successor within ten days of the change with the State Board, local electoral board, or both, as provided in subsection A.

C. Any candidate who fails to appoint and report the appointment of a treasurer or successor treasurer shall be deemed to have appointed himself treasurer and shall comply as such with the provisions of this chapter. (1970, c. 462, §§ 24.1-253, 24.1-254; 1971, Ex. Sess., c. 222; 1972, cc. 620, 622; 1975, c. 515; 1978, c. 778; 1983, c. 119; 1984, c. 480; 1993, c. 641; 1996, c. 405.)

Law Review. — For survey of Virginia administrative law for the year 1974-1975, see 61 Va. L. Rev. 1632 (1975).

§ 24.2-905. Campaign depositories; petty cash fund. — All funds and monetary contributions received by the candidate or his campaign committee, as soon as practicable after receipt thereof, shall be deposited by the treasurer in the designated campaign depository in an account properly identifying the name of and the existence of the political candidacy. No candidate, campaign treasurer, or other individual shall pay any expense on behalf of a candidate, directly or indirectly, except by a check drawn on such designated depository identifying the name of the campaign committee and candidate. However, a treasurer (i) may establish a petty cash fund to be utilized for the purpose of making expenditures or reimbursing verified credit card expenditures of less than one hundred dollars if complete records of such expenditures are maintained as required by this chapter and (ii) may transfer funds from the designated campaign depository to an account or instrument to earn interest on the funds so long as the transferred funds and earned interest are returned to the designated depository account, complete records are maintained, and all expenditures are made through the designated depository account. (1970, c. 462, § 24.1-254; 1975, c. 515; 1983, c. 119; 1993, c. 641; 1996, c. 217; 2000, c. 326; 2001, c. 633.)

The 2000 amendments. — The 2000 amendment by c. 325 divided the former second sentence into the present second and third sentences; and in the present third sentence, inserted the (i) designation and “and (ii) may transfer funds from the designated campaign depository to an account or instrument to earn interest on the funds so long as the transferred funds and earned interest are returned to the designated depository account, complete records are maintained, and all expenditures

are made through the designated depository account.”

The 2001 amendments. — The 2001 amendment by c. 633 substituted “a check drawn on such designated depository identifying the name of the campaign committee and candidate” for “check from such designated depository” in the second sentence.

Law Review. — For survey of Virginia administrative law for the year 1974-1975, see 61 Va. L. Rev. 1632 (1975).

§ 24.2-906. Books and records of candidate or his treasurer. — Every candidate or his treasurer shall keep detailed and accurate accounts of all contributions turned over to and expenditures made by the candidate or his treasurer on behalf of the candidate or his campaign committee, or reported to any candidate or his treasurer pursuant to § 24.2-907. Such account shall set forth the date of the contribution or expenditure, its amount or value, the name and address of the person or committee making the contribution or to whom the expenditure was made, and the object or purpose of the contribution or expenditure. Such books and records may be destroyed or discarded at any time after (i) one year from the date of filing the final report required by § 24.2-920 or (ii) three years after the December 31 immediately following the election, whichever last occurs, unless a court of competent jurisdiction shall

order their retention for a longer period. (1970, c. 462, § 24.1-256; 1975, c. 515; 1990, c. 976; 1993, c. 641.)

§ 24.2-906.1. Exemption from reporting requirements for certain candidates for local office. — This section shall apply to candidates for local office. A candidate for local office may seek an exemption from the requirements for filing disclosure reports of contributions and expenditures set out in Article 4 (§ 24.2-914 et seq.) of Chapter 9 of Title 24.2 except for the filing requirements of §§ 24.2-919 and 24.2-920 pertaining to certain large contributions and the filing of a final report. The request for an exemption shall be filed with the electoral board of the county or city where the candidate resides on a form prescribed by the State Board of Elections and in accordance with instructions by the State Board for the time for filing and the process for approval by the electoral board.

To qualify for an exemption, the candidate shall certify on the form that (i) he has not and will not solicit or accept any contribution from any other person during the course of his campaign, (ii) he has not and will not contribute to his own campaign more than \$1,000, (iii) he has not and will not expend more than \$1,000 in the course of his campaign, and (iv) that he has complied and will comply with the requirements of this article (§ 24.2-904 et seq.). This certification shall apply for the duration of the campaign until the filing of a final report in compliance with § 24.2-920 after the election. A candidate may rescind his certification and exemption at any time during the campaign and shall file in accordance with the appropriate filing schedule thereafter, provided that the candidate rescinds his certification prior to engaging in the activities described in clauses (i), (ii), and (iii) of this section. The first report filed shall account for all prior contributions and expenditures pertaining to his campaign. (2001, c. 794.)

§ 24.2-907. Contributions and expenditures to be paid or reported to treasurer. — A. All contributions and expenditures received or made by any candidate, or received or made on his behalf or in relation to his candidacy by any individual or entity, except independent expenditures, shall be paid over or delivered to the candidate's treasurer or shall be reported to the treasurer in such detail and form as to allow him to comply fully with this chapter. An independent expenditure shall be reported pursuant to § 24.2-910 in lieu of being reported to the candidate's treasurer.

B. It shall be unlawful for any candidate, or any individual or entity receiving contributions or making expenditures on a candidate's behalf or in relation to his candidacy, to fail to report every contribution and expenditure as required in subsection A and in this chapter. (1970, c. 462, § 24.1-255; 1975, c. 515; 1981, c. 425; 1983, c. 119; 1988, c. 616; 1991, c. 9; 1993, cc. 641, 776, 921.)

Editor's note. — Acts 1993, cc. 776 and 921 amended former § 24.1-255, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above. In accordance with cc. 776 and 921, which are identical, the former second paragraph of subsection B which provided: "Except as provided in the preceding paragraph and in § 24.1-257.3, any district, county or city political party committee shall be

exempt from the requirements of this chapter, but contributions made by any such political party committee to any candidate, his campaign committee, or committee as defined in § 24.1-254.1, shall be reported in accordance with the provisions of this chapter by the recipient of the contribution" was deleted.

Law Review. — For survey of Virginia administrative law for the year 1974-1975, see 61 Va. L. Rev. 1632 (1975).

ARTICLE 3.

Persons and Committees Other Than Campaign Committees.

§ 24.2-908. **Statement of organization.** — A. Except as provided in subsection B, each political committee which anticipates receiving contributions or making expenditures in excess of \$200 in a calendar year shall file with the State Board a statement of organization (i) within ten days after its organization or, if later, within ten days after the date on which it has information which causes the committee to anticipate it will receive contributions or make expenditures in excess of \$200 or on which it otherwise becomes subject to the provisions of this chapter, and (ii) annually thereafter by January 15.

The statement of organization shall include:

1. The name of the committee and its address in the Commonwealth;
2. The names, addresses, and relationships of affiliated or connected organizations;
3. The area, scope, or jurisdiction of the committee;
4. The name, business address, and position of the custodian, if any, of books and accounts and his residence address in the Commonwealth;
5. The name, residence address, and position of other principal officers, including officers and members of the finance committee, if any, and including at least one principal officer who is a resident of the Commonwealth, who serves as treasurer or chief executive officer of the committee, and who shall be deemed the agent of the committee for the purpose of service of process on the committee;
6. The name, address, office sought, and party affiliation of each individual whom the committee is supporting or opposing for nomination or for election to any public office whatever or, if supporting the entire ticket of any party, the name of the party;
7. In the event the committee is promoting or opposing a referendum, the subject of the referendum, the date and location of the election, and a statement whether the committee is promoting or opposing the referendum question;
8. In the case of an inaugural fund committee, the name, address, and office to which elected of the person on whose behalf the committee is organized;
9. A statement whether the committee is a continuing one;
10. The disposition of residual funds which will be made in the event of dissolution;
11. The designated sole depository to be used for the receipt and holding of funds and contributions received by the committee, in an account in a financial institution within the Commonwealth; and
12. Such other information as shall be required by the State Board.

Any change in information previously submitted in a statement of organization shall be reported to the State Board within ten days following the change.

Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$200 shall so notify the State Board.

B. Notwithstanding the provisions of subsection A, a political committee that is established or controlled by a corporation doing business in Virginia or a national political party committee shall provide the following information in its statement of organization in lieu of the information required in subdivisions 1, 4, 5, and 11 of subsection A:

1. The name and address of the committee;

2. The name, residence and business addresses, and position of the custodian, if any, of books and accounts;

3. The name, residence address, and position of other principal officers, including officers and members of the finance committee, if any; and

4. A listing of all banks, safe-deposit boxes, or other repositories used. (1975, c. 515, § 24.1-254.1; 1983, c. 119; 1991, cc. 9, 709; 1993, c. 641; 1996 c. 1042; 2000, cc. 852, 872.)

The 2000 amendments. — The 2000 amendments by cc. 852 and 872 are identical, and in subsection A, inserted “Except as provided in subsection B,” at the beginning of the subsection; in subdivision A 1, deleted “and address” and added “and its address in the Commonwealth”; in subdivision A 4, deleted “residence and”, substituted “address” for “addresses”, and added “and his residence address in the Commonwealth” at the end of the subdivision; added the language following “if any,” through the end of the subdivision in subdivision A 5; substituted the present subdivision A 11 for the former, which read: “A listing of all banks, safe-deposit boxes, or other repositories used; and”; and added subsection B.

Count relating to Virginia Fair Elections Practices Act dismissed. — Where count alleged that various provisions of the Virginia Fair Elections Practices Act, former § 24.1-251 et seq., constituted a system of prior restraint in violation of the First and Fourteenth Amendments to the Constitution, the district court properly dismissed the count. The statutes had been amended and the statutes which plaintiffs challenged were no longer the statutes in effect in Virginia. In addition, no evidence existed that the plaintiffs were currently under actual or threatened application of the new Virginia Campaign Finance Disclosure Act, § 24.2-900 et seq. *Jordahl v. Democratic Party*, 122 F.3d 192 (4th Cir. 1997).

Where plaintiffs would be irreparably

harmed were preliminary injunction not to issue, defendants would not be irreparably harmed by the issuance of a preliminary injunction, and plaintiffs showed a likelihood of success on the merits, the public interest would be served by the court’s injunction. *Virginia Soc’y for Human Life, Inc. v. Caldwell*, 906 F. Supp. 1071 (W.D. Va. 1995).

Where plaintiffs filed 42 U.S.C. § 1983 claims for injunction injuries, claims dismissed. — Where defendant filed complaints against plaintiffs alleging that plaintiffs were violating the Virginia Fair Elections Practices Act, former § 24.1-251 et seq., and state courts entered orders enjoining plaintiffs from distributing political literature, and where plaintiffs filed 42 U.S.C. § 1983 claims for injuries caused by these injunctions, plaintiffs’ claims were properly dismissed under the Rooker-Feldman Doctrine. *Jordahl v. Democratic Party*, 122 F.3d 192 (4th Cir. 1997).

Group that engages solely in issue advocacy and doesn’t receive “contributions” or make “expenditures” to expressly advocate the election or defeat of a clearly identified candidate is not a “political committee” as defined in § 24.2-901, and, consequently, is not included in the mandate of this section. *Virginia Soc’y for Human Life, Inc. v. Caldwell*, 256 Va. 151, 500 S.E.2d 814 (1998).

Applied in Virginia Soc’y for Human Life, Inc. v. Caldwell, 152 F.3d 268 (4th Cir. 1998).

§ 24.2-908.1. Use of candidate’s name in name of political committee.

— A. No political committee required to file a statement of organization pursuant to § 24.2-908 shall include in any part of its name the name of a candidate unless the political committee either (i) has obtained, prior to filing, the written authorization of the candidate to use the candidate’s name as part of the name of the political committee or (ii) has mailed by certified mail, twenty-one or more days prior to filing, written notice to the candidate of its intent to use his name as part of the name of the political committee.

B. Any political committee which intends to use the name of a candidate as part of the name of the political committee shall file with the statement of organization required by § 24.2-908 either (i) a copy of the written authorization of the candidate consenting to the use of his name or (ii) a copy of its notice to the candidate and evidence of its timely mailing. If two candidates seeking the same office have the same surname, the political committee shall include the first name, or other initial or nickname, and the last name of the candidate, in the name of the political committee so as to identify which candidate is associated with the political committee; and either the written authorization of

the identified candidate or written notice to the identified candidate shall be required by this section.

C. Any violation of this section shall be subject to the civil penalty stated in subsection A of § 24.2-929. (1996, cc. 586, 601.)

§ 24.2-909. Establishment of political action committees by certain entities. — Any stock or nonstock corporation, labor organization, membership organization, cooperative, or other group of persons may establish and administer for political purposes, and solicit and expend contributions for, a political action committee, provided that:

1. No political action committee shall make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisal, threat of force, or as a condition of employment.

2. Any person soliciting a contribution to a political action committee shall, at the time of solicitation, inform the person being solicited of (i) his right to refuse to contribute without any reprisal and (ii) the political purposes of the committee. (1981, c. 425, § 24.1-254.2; 1993, c. 641.)

Law Review. — For an article, "Governing Through Intermediaries," see 85 Va. L. Rev. 1627 (1999). For a commentary, "Pluralism With a Corporate Face: A Comment On Issacharoff and Ortiz," see 85 Va. L. Rev. 1671 (1999). For a commentary, "Political Parties as Donative Intermediaries," see 85 Va. L. Rev. 1683 (1999). For an article, "Politics By Other Means," see 85 Va. L. Rev. 1697 (1999). For a commentary, "It's Not Just Talk," see 85 Va. L.

Rev. 1725 (1999). For a commentary, "Market Failures and Failures of Markets," see 85 Va. L. Rev. 1745 (1999). For an article, "The Issue of Issue Advocacy: An Economic, Political, and Constitutional Analysis," see 85 Va. L. Rev. 1761 (1999). For a commentary, "Taking Issue With Issue Advocacy," see 85 Va. L. Rev. 1793 (1999). For a commentary, "On the Issue of Issue Advocacy," see 85 Va. L. Rev. 1803 (1999).

§ 24.2-910. Persons and political committees required to file disclosure reports. — A. Any political committee required to file a statement of organization by § 24.2-908 shall be required to maintain records and file disclosure reports as provided in Article 4 (§ 24.2-914 et seq.) of this chapter.

B. Any person who is not a political committee and who makes independent expenditures, in the aggregate, in excess of \$500 for a statewide election or \$200 for any other election shall maintain records and report pursuant to Article 4 of this chapter all such independent expenditures including:

1. Any funds expended for the purpose of influencing the outcome of any election for public office; and

2. Any funds expended to publish or broadcast to the public any material referring to a candidate by name, description, or other reference and (i) advocating his election or defeat, (ii) setting forth his position on any public issue, voting record, or other official acts, or (iii) otherwise designed to influence individuals to cast their votes for or against him or to withhold their votes from him. (1970, c. 462, § 24.1-255; 1975, c. 515; 1981, c. 425; 1983, c. 119; 1988, c. 616; 1991, c. 9; 1993, c. 641; 1996 c. 1042.)

Count relating to Virginia Fair Elections Practices Act dismissed. — Where count alleged that various provisions of the Virginia Fair Elections Practices Act, former § 24.1-251 et seq., constituted a system of prior restraint in violation of the First and Fourteenth Amendments to the, the district court properly dismissed the count. The statutes had been amended and the statutes which plaintiffs challenged were no longer the statutes in effect in Virginia. In addition, no evidence existed

that the plaintiffs were currently under actual or threatened application of the new Virginia Campaign Finance Disclosure Act, § 24.2-900 et seq. *Jordahl v. Democratic Party*, 122 F.3d 192 (4th Cir. 1997).

Where plaintiffs would be irreparably harmed were preliminary injunction not to issue, defendants would not be irreparably harmed by the issuance of a preliminary injunction, and plaintiffs showed a likelihood of success on the merits, and the public interest

would be served by the court's injunction. *Virginia Soc'y for Human Life, Inc. v. Caldwell*, 906 F. Supp. 1071 (W.D. Va. 1995).

Where plaintiffs filed 42 U.S.C. § 1983 claims for injunction injuries, claims dismissed. — Where defendant filed complaints against plaintiffs alleging that plaintiffs were violating the Virginia Fair Elections Practices Act, former § 24.1-251 et seq., and state courts entered orders enjoining plaintiffs from distributing political literature, and where plaintiffs filed 42 U.S.C. § 1983 claims for injuries

caused by these injunctions, plaintiffs' claims were properly dismissed under the Rooker-Feldman Doctrine. *Jordahl v. Democratic Party*, 122 F.3d 192 (4th Cir. 1997).

"Independent expenditure" contemplated by this section and as defined in § 24.2-901 excludes expenditures made solely for issue advocacy. *Virginia Soc'y for Human Life, Inc. v. Caldwell*, 256 Va. 151, 500 S.E.2d 814 (1998).

Applied in *Virginia Soc'y for Human Life, Inc. v. Caldwell*, 152 F.3d 268 (4th Cir. 1998).

§ 24.2-911. Certain political party committees exempt. — A. Except as provided in §§ 24.2-907 and 24.2-912, any district, county, or city party committee and any organized political party group of elected officials shall be exempt from the reporting requirements of this chapter. Contributions made by such committee or group to any candidate, his campaign committee, or a political committee shall be reported by the recipient of the contribution in accordance with the provisions of this chapter.

B. The exemption provided in this section shall not be applicable to state political party committees, congressional district political party committees, or county or city political party committees for any county or city with a population of more than 100,000, or organized political party groups of elected officials. Any other political party committee shall be exempt from the reporting and notification requirements of this chapter, except as provided in §§ 24.2-907 and 24.2-912, in each calendar year in which it does not accept contributions totaling more than \$10,000, or make contributions and expenditures totaling more than \$10,000. Any such committee shall be subject to such reporting requirements as soon as it accepts aggregated contributions, or makes aggregated contributions and expenditures, in excess of \$10,000 in a calendar year. The first report filed pursuant to § 24.2-923 shall account for all receipts and disbursements during the calendar year and shall be complete through the completion date for the report period. The State Board of Elections, by regulation, shall adjust the \$10,000 threshold annually for inflation, but not decrease the threshold below \$10,000. (1970, c. 462, §§ 24.1-254.1, 24.1-255; 1975, c. 515; 1981, c. 425; 1983, c. 119; 1988, c. 616; 1991, cc. 9, 709; 1993, cc. 641, 776, 921.)

Editor's note. — Acts 1993, cc. 776 and 921 amended former § 24.1-254.1, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in

this section, as set out above. In accordance with cc. 776 and 921, the amendments added subsection B.

§ 24.2-912. Political party committees required to report designated contributions. — A. Every state, district, county, and city party committee and every organized political party group of elected officials shall file a report of contributions received by it and designated in writing, orally, or otherwise by the contributor for the election of a specified candidate or candidates. The report shall (i) be on a form prescribed by the State Board and may be incorporated in the report of contributions and expenditures prescribed in § 24.2-914, (ii) provide for the reporting of the receipt and disbursement of designated contributions, including information to identify the contributor, as provided in § 24.2-914, (iii) include the name of the candidate for whose election the contributor has designated the contribution, and (iv) be filed with the State Board in accordance with § 24.2-923.

B. Either the failure to file any report or the late filing of any report required by this section shall constitute a violation of this chapter subject to the

penalties provided in § 24.2-929. (1988, c. 616, § 24.1-257.3; 1991, c. 9; 1993, c. 641.)

§ 24.2-913. Inaugural fund committees. — Any inaugural fund committee shall maintain all inaugural funds in a separate account and in such detail and form as to allow full compliance with this chapter. A candidate's campaign committee shall not serve as an inaugural fund committee. All filing and reporting requirements imposed by this chapter shall apply to inaugural fund committees except as specifically provided otherwise. (1991, cc. 474, 709, § 24.1-254.3; 1993, c. 641.)

ARTICLE 4.

Disclosure Reports.

§ 24.2-914. Information to be included on report of contributions and expenditures. — A. The report required by this chapter shall be filed on a form prescribed by the State Board and shall include all contributions and expenditures. All completed forms shall be submitted in typed, printed, or legibly hand printed format or as provided in § 24.2-914.1. Reports required by this chapter shall be received by the State Board, local electoral board, or both, by the deadline for filing the report. The State Board shall provide instructions to filers for delivery of reports within the time periods prescribed by law. Persons submitting the forms shall do so subject to felony penalties for making false statements pursuant to § 24.2-1016.

B. The report of receipts shall include:

1. The total number of contributors, each of whom has contributed an aggregate of \$100 or less, including cash and in-kind contributions, as of the date of the report, and the total amount of contributions from all such contributors;

2. For each contributor who has contributed an aggregate of more than \$100, including cash and in-kind contributions, as of the date of the report, the name of the contributor, listed alphabetically, the address of the contributor, the amount of the contribution included in the schedule of receipts, the aggregate amount of contributions from the contributor to date, and the date of the last contribution. For each such individual contributor, the occupation of the contributor, the name of his employer or principal business, and the locality where employed or where his business is located. For each such contributor, other than an individual, the place of business and principal business activity of the contributor. For each such contributor other than an individual, it shall be sufficient to list the address of the contributor one time on the report of receipts.

C. The report of disbursements shall include all expenditures and give:

1. The name and address of the person paid;
2. A brief description of the purpose of the expenditure;
3. The name of the person contracting for or arranging the expenditure;
4. The amount of the expenditure; and
5. The date of the expenditure.

The report of disbursements shall itemize any expenditure made by credit card payment.

D. Each report for a candidate shall list separately those receipts and expenditures reported to the candidate or his treasurer by any person, political committee, or political party committee pursuant to § 24.2-907 and shall set forth in each instance the source of the information reported.

E. The report shall list separately all loans and, for each loan, shall give:

1. The date the loan was made;

2. The name and address of the person making the loan and any person who is a co-borrower, guarantor, or endorser of the loan;
3. The amount of the loan;
4. The date and amount of any repayment of the loan; and
5. For any loan or part of a loan which is forgiven by the lender, the amount forgiven listed as both a contribution and loan repayment. (1970, c. 462, § 24.1-258; 1971, Ex. Sess., c. 247; 1972, c. 620; 1975, c. 515; 1976, c. 616; 1978, c. 381; 1983, c. 119; 1990, c. 156; 1993, cc. 341, 641; 1997, cc. 364, 392; 1999, c. 864; 2000, c. 304; 2001, cc. 618, 810.)

Cross references. — As to exemption from reporting requirements for certain candidates for local office, see § 24.2-906.1.

Editor's note. — Acts 1993, c. 341 amended former § 24.1-258, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above, to Acts 1993, c. 341.

The 1999 amendment added the second sentence in subdivision B 2.

The 2000 amendments. — The 2000 amendment by c. 304 inserted the present second and third sentences of subsection A; and inserted "including cash and in-kind contributions" in subdivisions B 1 and B 2.

The 2001 amendments. — The 2001 amendments by cc. 618 and 810 are identical, and in subdivision B 2, deleted "the occupation, including name of employer or principal business, and the principal place of business of the contributor" preceding "the amount of" in the

first sentence, added the second and third sentences, and substituted "other than an individual" for "that is a corporation or other entity" in the last sentence; and added the last paragraph in subsection C.

Law Review. — For a review of 1999 technology legislation in Virginia, see 33 U. Rich. L. Rev. 1037 (1999).

Candidate not required to disclose expenses associated with recount. — Candidate for office was not required under Fair Elections Practices Act, former § 24.1-251 et seq., in effect at time of his candidacy to disclose contributions made after the election to defray legal expenses associated with recount, because the statute was unclear and ambiguous with respect to whether recount contributions had to be reported. *Waldrop v. Commonwealth*, 255 Va. 210, 495 S.E.2d 822 (1998) (decided under prior law).

§ 24.2-914.1. Standards and requirements for electronic preparation and transmittal of campaign finance disclosure reports; database.

— A. The State Board of Elections shall review or cause to be developed and shall approve standards for the preparation, production, and transmittal by computer or electronic means of the reports of contributions and expenditures required by this article (§ 24.2-914 et seq.). The State Board may prescribe the method of execution and certification of electronically filed statements and the procedures for receiving statements in the office of the State Board or by the local electoral boards.

B. 1. The State Board shall accept any report of contributions and expenditures filed by candidates for the General Assembly, Governor, Lieutenant Governor, and Attorney General by computer or electronic means in accordance with the standards approved by the State Board and using software meeting standards approved by it.

2. A local electoral board may accept reports of contributions and expenditures filed by computer or electronic means from any candidate or political committee that is required to file reports with that board. Such reports shall be filed in accordance with, and using software that meets, standards approved by the State Board. The electoral board shall promptly make the information that it accepts in this manner available to the public through the global information system known as the Internet.

3. The State Board may provide software to filers without charge or at a reasonable cost.

C. On and after January 1, 2001, the State Board shall enter or cause to be entered into a campaign finance database, available to the public through the global information system known as the Internet, the information from

required reports of contributions and expenditures filed by computer, electronic, or other means by candidates for the General Assembly, Governor, Lieutenant Governor, and Attorney General.

D. Candidates for Governor, Lieutenant Governor, and Attorney General shall file by computer or electronic means in accordance with the standards approved by the State Board the reports required by this article. Candidates for the General Assembly may file the reports required by this article with the State Board by computer or electronic means in accordance with the standards approved by the State Board. This information shall be made available to the public promptly by the State Board through the global information system known as the Internet.

E. Other committee reports required by this chapter to be filed with the State Board or a local electoral board, or both, may be filed electronically on terms agreed to by the committee and Board. (1996, c. 687; 1997, cc. 364, 392; 1998, c. 416; 1999, c. 864; 2000, cc. 511, 555.)

The 1999 amendment, in subsection D, deleted "On and after January 1, 1999" at the beginning of the first and second sentences, and in the second sentence, inserted "the reports required by this article with the State Board and local electoral boards" and substituted "and subject to the ability of the local electoral board to receive such computer or electronic filings" for "the reports required by this article."

The 2000 amendments. — The 2000 amendments by cc. 511 and 555 are identical, and in subsection A, deleted "By January 1, 1998," from the beginning of the first sentence, and added "or by the local electoral boards" at the end of the subsection; in subsection B, deleted the language preceding "The State Board shall," referring to the pre January 1, 1999 rule, from the beginning of the subsection,

designated the first sentence of the former introductory paragraph as subdivision B 1, added subdivision B 2, and designated the second sentence of the former introductory paragraph as subdivision B 3; deleted the first sentence of subsection C referring to the State Board's authority, prior to January 1, 2001, to only enter into the database information that was filed by computer or electronic means; in the second sentence in subsection D, deleted "and local electoral boards" preceding "by computer," and deleted "and subject to the ability of the local electoral board to receive such computer or electronic filings" at the end of the sentence; and in subsection E, substituted "the State Board or a local electoral board, or both," for "the Board."

§ 24.2-915. With whom candidates to file reports; responsibility for reporting. — Electronic reports shall be filed by candidates for nomination or election for statewide office and the General Assembly with the State Board. Nonelectronic reports for the General Assembly shall be filed with the State Board and with the electoral board of the locality where the candidate resides, except as otherwise provided in § 24.2-919. Except as provided in § 24.2-906.1, candidates for any other office shall file with the electoral board of the locality in which the candidate resides.

It is the joint responsibility of the candidate and his treasurer that the report of a candidate be filed, that the report be in full and accurate detail, and that the report be received by the State Board, local electoral board, or both, by the deadline for filing the report. Any report to be filed with the State Board may be mailed subject to the requirements of § 24.2-919 for certain large preelection contributions. If mailed, the report shall be (i) received by the State Board by the deadline for filing the report or (ii) transmitted to the State Board by telephonic transmission to a facsimile device by the deadline for filing the report with an original copy of the report mailed to the State Board and postmarked by the deadline for filing the report. (1986, c. 558, § 24.1-257.2; 1988, c. 734; 1991, c. 709; 1993, c. 641; 2000, cc. 304, 511, 555; 2001, cc. 618, 794, 810.)

The 2000 amendments. — The 2000 amendments by cc. 511 and 555 are identical,

and rewrote the first paragraph, which formerly read: "Reports shall be filed by candi-

dates for nomination or election (i) for statewide office, with the State Board, (ii) for the General Assembly, with the State Board and with the electoral board of the locality where the candidate resides, except as otherwise provided in § 24.2-919, and (iii) for any other office, with the electoral board of the locality in which the candidate resides.”

The 2000 amendment by c. 304, in the second paragraph, added “and that the report be received by the State Board, local electoral board, or both, by the deadline for filing the report” at the end of the first sentence, and deleted “received within seventy-two hours of election day” at the end of the third sentence.

The 2001 amendments. — The 2001

amendments by cc. 618 and 810 are identical, and substituted the present second and third sentences for the former second and third sentences which read: “Any report to be filed with the State Board may be mailed. If mailed, the report must be postmarked not later than the deadline for filing, except as provided in § 24.2-919 for certain large pre-election contributions.”

The 2001 amendment by c. 794 substituted “Except as provided in § 24.2-906.1, candidates for any other office shall file” for “For any other office, candidates shall file” at the beginning of the last sentence in the first undesignated paragraph.

§ 24.2-916. Filing schedule for candidates for office generally. — A candidate for any office, other than as provided in § 24.2-917 for a local office to be filed at a May general election or in § 24.2-918 for certain special elections, shall file the prescribed reports of contributions and expenditures as follows:

1. Not later than July 15 in a nonelection year for the period January 1 through June 30;
2. Not later than January 15 following a nonelection year for the period July 1 through December 31;
3. In an election year, not later than April 15 for the period January 1 through March 31 and pursuant to subdivisions 4 through 9 of this section;
4. Not later than the eighth day before the June primary date complete through the thirteenth day before the primary date;
5. Not later than July 15 complete through June 30;
6. Not later than September 15 complete through August 31;
7. Not later than October 15 complete through September 30;
8. Not later than the eighth day before the November election date complete through the thirteenth day before the election date;
9. Not later than the thirtieth day after the November election date complete through the twenty-third day after the election date; and
10. Not later than January 15 following an election year complete through December 31, and then in accordance with subdivisions 1 and 2 or subdivisions 3 through 9, as appropriate, of this section until a final report is filed.

Any candidate shall also file the report of certain large pre-election contributions required by § 24.2-919, if applicable. The report required by subdivision 9 of this section shall not be applicable to political party committees. (1986, c. 558, § 24.1-257.2; 1988, c. 734; 1991, c. 709; 1993, cc. 639, 641; 1995, c. 785.)

Editor’s note. — Acts 1993, c. 639 amended former § 24.1-257.2, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above. In accordance with c. 639, former subdivisions 1 through 11 were rewritten as present subdivisions 1 through 9, and the second sentence in the last paragraph was added.

Candidate not required to disclose expenses associated with recount. — Candi-

date for office was not required under Fair Elections Practices Act, former § 24.1-251 et seq., in effect at time of his candidacy to disclose contributions made after the election to defray legal expenses associated with recount, because the statute was unclear and ambiguous with respect to whether recount contributions had to be reported. *Waldrop v. Commonwealth*, 255 Va. 210, 495 S.E.2d 822 (1998) (decided under prior law).

§ 24.2-917. Filing schedule for candidates for offices filled at May general elections. — Any candidate for election to a local office to be filled at a May general election shall file the prescribed reports of contributions and expenditures as follows:

1. For municipal primary candidates only, not later than the eighth day before the primary date complete through the eleventh day before the primary;
2. Not later than the eighth day before the election date complete through the eleventh day before the election date;
3. Not later than June 15 of the election year complete through June 10;
4. Not later than July 15 of the election year complete through June 30; and
5. Not later than the following January 15 complete through December 31 and annually thereafter until a final report is filed as provided in § 24.2-920.

Any candidate shall also file the report of certain large pre-election contributions required by § 24.2-919, if applicable. (1986, c. 558, § 24.1-257.2; 1988, c. 734; 1991, c. 709; 1993, c. 641; 1995, c. 785.)

§ 24.2-918. Filing requirements for special elections. —

A. Candidates for nomination or election to an office to be filled by a special election held on a regular election date shall file the prescribed reports of contributions and expenditures which apply to regularly scheduled elections for that office.

B. In the case of a special election held on a date other than a regularly scheduled general election, the candidate shall file as follows:

1. A report not later than the eighth day before the special election date complete through the eleventh day before that date;
2. The reports required by § 24.2-919;
3. A post-election report no later than the thirtieth day after the election and prior to taking office; and
4. A post-election report not later than January 15 and July 15 each year until a final report is filed as provided in § 24.2-920. (1986, c. 558, § 24.1-257.2; 1988, c. 734; 1991, c. 709; 1993, cc. 639, 641.)

Editor's note. — Acts 1993, c. 639 amended former § 24.1-257.2, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above, to Acts 1993, c. 639.

§ 24.2-919. Special report required of certain large pre-election contributions. — A. Except as provided in subsection B, any single contribution of more than \$1,000 for a statewide office or more than \$500 for any other office, knowingly received or reported by the candidate or his treasurer on behalf of his candidacy (i) between the thirteenth day preceding a June primary and the primary date, (ii) between the thirteenth day preceding a November election and the election date, or (iii) between the eleventh day preceding any other election in which the individual is a candidate and the election day, shall be reported in writing as provided in § 24.2-914 or electronically pursuant to § 24.2-914.1, and the report received by the State Board or local electoral board, as appropriate, by the end of the next business day; however, any such contribution received within the twenty-four hours prior to the election day shall be reported and a report thereof received on the day prior to the election. Statewide and General Assembly candidates shall file all reports required by this section with the State Board and with the electoral board of the locality where the candidate resides. Any candidate for a constitutional or local office shall file such reports with the electoral board of the locality where the candidate resides. Any contribution reported pursuant to this section shall also be reported on the first report required by this article after any election.

B. The reports required by subsection A of this section shall also be required of any candidate for nomination by a political party to serve as the party's nominee in a general or special election if (i) the party nominates by convention or any method other than a primary and (ii) there are at least two candidates for nomination pursuant to the rules and procedures of the party. In such case, candidates for nomination shall be required to file the reports required by subsection A for the thirteen-day or eleven-day period, as specified by subsection A, immediately preceding:

1. The caucus, mass meeting, convention, or other nominating event at which the party's nomination shall be finally determined pursuant to the rules and procedures of the party; and

2. Any caucus, mass meeting, convention, or other nominating event, other than that at which the party's nomination shall be finally determined, at which delegates are chosen who are pledged to support a specified candidate on at least one ballot at a subsequent district or state convention required as part of the nominating process.

No report shall be required pursuant to this subsection if the candidate is or has become, by virtue of the withdrawal of any opponent or the operation of the rules and procedures of the party, unopposed for nomination at the time such report otherwise would be required to be made. (1986, c. 558, § 24.1-257.2; 1988, c. 734; 1991, c. 709; 1993, cc. 639, 641; 1995, c. 785; 1998, c. 382; 2000, c. 304.)

Editor's note. — Acts 1993, c. 639 amended former § 24.1-257.2, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above, to Acts 1993, c. 639.

The 2000 amendments. — The 2000 amendment by c. 304, in subsection A, in clause (iii), substituted "writing as provided in § 24.2-914 or electronically pursuant to § 24.2-914.1, and the report received by the State Board or

local electoral board, as appropriate, by the end of the next business day; however, any such contribution received within the twenty-four hours prior to the election day shall be reported and a report thereof received on the day" for "writing within seventy-two hours; however, any such contribution received within the seventy-two hours prior to the election day shall be reported and a report thereof received no later than the day."

§ 24.2-920. Final report requirement; transfer of surplus. — A. A final report shall be filed by every candidate which sets forth (i) all receipts and disbursements not previously reported, (ii) an accounting of the retirement of all debts, and (iii) the disposition of all surplus funds. The final report shall include a termination statement, signed by the candidate, that all reporting for the nomination or election is complete and final. Once a candidate's final report has been filed, no further report relating to that election shall be required.

B. For the purpose of filing the reports required by this article, each general election shall be treated separately. After the filing of a final report, surplus funds may be transferred for use in a succeeding election.

C. If the candidate is deceased, the final report shall be filed and signed by the treasurer. If the candidate was serving as his own treasurer, his executor shall file and sign the final report. Any excess contributed funds shall be disposed of pursuant to § 24.2-921. (1986, c. 558, § 24.1-257.2; 1988, c. 734; 1991, c. 709; 1993, c. 641; 2000, c. 233.)

The 2000 amendments. — The 2000 amendment by c. 233 added subsection C.

§ 24.2-920.1. Dormant campaigns. — The State Board or the electoral board of any county or city may close the file of any candidate required to file with it provided (i) the candidate has not filed a final report; (ii) the candidate has not filed a report with it for any campaign for any office within the prior

five years; and (iii) the Board or board cannot locate either the candidate or his campaign treasurer. Once the file has been closed, no more reports will be due and no additional fines for failure to file will accrue. However, if the whereabouts of the candidate later becomes known to the Board or board, it may reopen the file and send notice to the candidate requesting that he file the appropriate reports and pay any fines that were levied before the file was closed by it. (2000, c. 233.)

§ 24.2-921. Use of excess contributed funds. — Amounts received by a candidate or his campaign committee as contributions that are in excess of the amount necessary to defray his campaign expenditures may be disposed of only by one or any combination of the following: (i) transferring the excess for use in a succeeding election or to retire the deficit in a preceding election; (ii) returning the excess to a contributor in an amount not to exceed the contributor's original contribution; (iii) donating the excess to any organization described in § 170 (c) of the Internal Revenue Code; (iv) contributing the excess to one or more candidates or to any political committee which has filed a statement of organization pursuant to § 24.2-908; (v) contributing the excess to any political party committee; and (vi) defraying any ordinary, nonreimbursed expense related to his elective office. It shall be unlawful for any person to convert any contributed moneys, securities, or like intangible personal property to his personal use. (1990, c. 931, § 24.1-258.1; 1993, c. 641.)

§ 24.2-922. Reports as condition to qualification for office. — A. No person shall be permitted to qualify for any office, enter upon the duties thereof, or receive any salary or emoluments therefrom until he has filed the reports required in subdivisions 3 through 9 of § 24.2-916; subdivisions 1, 2 and 3 of § 24.2-917; and subdivisions B 1 and B 3 of § 24.2-918, as applicable. No officer authorized by the laws of this Commonwealth to issue certificates of election shall issue one to any person determined to be elected to any such office, until copies of the reports cited above have been filed as required in this article.

B. Notwithstanding the requirements of subsection A, a person who is elected to fill a vacancy at a special election held on a general election day may qualify for the office and be issued a certificate of election in advance of filing the postelection report required to be filed under subdivision 9 of § 24.2-916 in the case of a November election, or under subdivision 3 of § 24.2-917 in the case of a May election, upon the filing of a postelection report complete through the election day. (1970, c. 462, § 24.1-260; 1972, c. 620; 1982, c. 650; 1986, c. 558; 1988, c. 734; 1993, c. 641; 1995, c. 785; 1999, c. 120.)

The 1999 amendment added the subsection A designator and added subsection B.

§ 24.2-923. Filing schedule for persons and political committees. — A. Persons and political committees shall file the prescribed reports of contributions and expenditures with the State Board in accordance with the applicable schedule set out in §§ 24.2-916 through 24.2-919. The first filed report shall be complete for the entire period from the time the committee was organized or contributions were received. A committee shall comply with the election year schedule for each year in which it seeks to influence the outcome of the election. Each political party committee for a county, city, or local district which is required to file the prescribed reports shall also file the report with the local electoral board for its jurisdiction.

B. The reporting requirements shall continue in effect for each committee until a final report is filed which sets forth (i) all receipts and disbursements

not previously reported, (ii) an accounting of the retirement of all debts, and (iii) the disposition of all residual funds. The final report shall include a termination statement, signed by an officer of the committee, that all reporting is complete and final. (1984, c. 480, § 24.1-923; 1991, cc. 9, 709; 1993, cc. 639, 641; 1995, c. 785.)

Editor's note. — Acts 1993, c. 639 amended former § 24.1-257.1, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above. In accordance with c. 639, the amendment, in subsection A, inserted the lan-

guage beginning "applicable schedule" in the first sentence, in the second sentence, added "The," substituted "filed report" for "such report filed," and inserted "shall," and added the last sentence.

§ 24.2-923.1. Dormant committees. — The State Board may close the file of any committee provided (i) the committee has not filed a final report pursuant to § 24.2-923 or notified the Board pursuant to § 24.2-908 that it has disbanded or determined it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$200; (ii) the committee has not filed any reports within the prior five years; and (iii) the Board cannot locate any of the officers listed on the committee's most recent statement of organization. Once the file has been closed, no more reports will be due and no additional fines for failure to file will accrue. However, if the whereabouts of any officer listed on the most recent statement of organization later becomes known to the Board, it may reopen the file and send notice to such officer requesting that he file the appropriate reports or notice and pay any fines which were levied before the file was closed by it. (2000, c. 233.)

§ 24.2-924. Filing schedule for inaugural fund committees. — An inaugural fund committee shall file the prescribed reports of contributions and expenditures as follows:

1. Not later than March 15 immediately following the inauguration for all contributions and expenditures made prior to the preceding March 1;
2. Not later than July 15 of the inauguration year complete through June 30;
3. Not later than the following January 15 complete through December 31; and
4. Annually thereafter until a final report is filed.

The final report shall set forth (i) all receipts and disbursements not previously reported, (ii) an accounting of the retirement of all debts, and (iii) the disposition of all surplus funds. The final report shall include a termination statement, signed by an officer of the committee, that all reporting is complete and final. (1991, cc. 474, 709, § 24.1-924; 1993, c. 641.)

§ 24.2-925. Use of excess inaugural committee funds. — It shall be unlawful for any person to disburse any funds or receipts of an inaugural fund committee which are in excess of the amount necessary to defray expenditures for inaugural activities other than by one or any combination of the following: (i) transferring the excess to a campaign committee for the inaugurated official for use in a subsequent election or to retire the deficit in a preceding election; (ii) returning the excess to a contributor in an amount not to exceed the contributor's original contribution; (iii) donating the excess to any organization described in § 170 (c) of the Internal Revenue Code; (iv) contributing the excess to one or more candidates or to any political committee which has filed a statement of organization pursuant to § 24.2-908; (v) contributing the excess to any political party committee; and (vi) defraying any ordinary,

nonreimbursed expense of the inaugurated official related to his elective office. (1991, cc. 474, 709, § 24.1-924; 1993, c. 641; 1994, c. 607.)

§ 24.2-926. Custody of reports; inspection and copying. — Every officer or electoral board, other than the State Board, with whom reports are required by this chapter to be filed, shall file and preserve such reports and keep them as part of the office's records for at least one year after the final report is filed, or through the next general election for the office to which they pertain, whichever is later. The State Board shall file and preserve as part of its records the reports required by this chapter to be filed with it for at least one year after the final report is filed. Thereafter, the State Board shall forward the reports it preserves to The Library of Virginia for preservation under the Virginia Public Records Act (§ 42.1-76 et seq.).

All reports shall be open to inspection by any person during the business hours of the office in which they are filed. Copies shall be produced for any person requesting them who shall pay the reasonable cost of the copies.

Copies of such reports certified by the principal administrative officer in whose office they are kept shall be evidence in all courts to the same extent as the original report would be if produced and proved. (1970, c. 462, § 24.1-261; 1980, c. 639; 1982, c. 650; 1983, c. 119; 1993, cc. 396, 641; 1994, c. 64; 1996, c. 6.)

Editor's note. — Acts 1993, c. 396 amended former § 24.1-261, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above. In accordance with c. 396, the

amendment, in the second paragraph, substituted "by any person" for "by any qualified voter" in the first sentence, and substituted "for any person" for "for any qualified voter" in the second sentence.

§ 24.2-927. Failure to report or filing of late report a violation; certain extensions. — Either the failure to file any report or the late filing of any report required by this article shall constitute a violation of this chapter subject to the penalties provided in §§ 24.2-929 and 24.2-930. Notwithstanding any other provision of law, any candidate or treasurer required to file a report pursuant to this article shall be entitled to a seventy-two-hour extension of the filing deadline if his spouse, parent, grandparent, child, grandchild or sibling died within the seventy-two hours before the deadline. The State Board or the local electoral board shall be authorized to grant an extension of the filing deadline for a period not to exceed five days in the case of an emergency found by the Board or board sufficient to justify the granting of the extension. (1984, c. 480, §§ 24.1-257.1; 1986, c. 558, § 24.1-257.2; 1988, c. 734; 1991, cc. 9, 709; 1993, c. 641; 2000, c. 234.)

The 2000 amendments. — The 2000 amendment by c. 234 added the last two sentences.

§ 24.2-928. (Effective until July 1, 2002) Reporting of certain violations. — A. It shall be the duty of the State Board to report any violation of the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title to the appropriate attorney for the Commonwealth. The State Board shall report to the attorney for the Commonwealth of the City of Richmond in the case of reporting requirements for statewide campaigns and for political committees and to the attorney for the Commonwealth of the county or city of the residence of a candidate for the General Assembly. If all the officers of a political committee are residents of one county or city as shown on the statement of organization filed by the committee pursuant to § 24.2-908, the State Board

shall report violations for that political committee to the attorney for the Commonwealth of that county or city.

B. It shall be the duty of the electoral board of a county or city to report any violation of the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title relating to the filing of reports with the electoral board to the attorney for the Commonwealth for the county or city in which the electoral board has jurisdiction.

C. In order to fulfill the duty to report violations pursuant to subsections A and B, the Board shall establish and implement a system for receiving, cataloging, and reviewing reports filed pursuant to the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title and for verifying that reports are complete and submitted on time. As part of the system referred to in this subsection, the general registrar for each county and city, or the secretary of the electoral board in any county or city in which the electoral board chooses to perform the duties stated in this subsection, shall be required, in accordance with instructions provided by the Board, to receive, catalog, and review the reports filed with the local electoral board and to verify that the reports are complete and submitted on time. The State Board, or the general registrar or secretary of the electoral board if the electoral board has so determined, shall notify, no later than seven days after the report due date, any person submitting an incomplete report of the need for additional information. The State Board, or the general registrar or secretary of the electoral board in accordance with the instructions of the State Board, may request additional information to correct obvious mathematical errors and to fulfill the requirements for information on the reports.

D. The State Board, and the general registrar or secretary of the electoral board in accordance with the instructions of the State Board, (i) shall assess and collect the civil penalties provided in § 24.2-929 and (ii) if unable to collect the penalty, shall report the violation to the appropriate attorney for the Commonwealth for enforcement. Each locality shall advise the State Board of penalties assessed, collected and reported to the attorney for the Commonwealth.

E. No local electoral board shall be required to retain any reports longer than one year from the date of filing the final report required by §§ 24.2-915 through 24.2-920 and 24.2-923, or any successor provision thereto, or the next general election for the office to which the report relates, whichever is later, unless a court of competent jurisdiction shall order their retention for a longer period. (1979, c. 370, § 24.1-263; 1991, c. 709; 1993, cc. 393, 641; 1994, c. 903; 1995, c. 785; 1996, cc. 395, 405; 1998, c. 153; 2001, c. 648.)

Section set out twice. — The section above is effective until July 1, 2002. For the version of this section effective July 1, 2002, see the following section, also numbered 24.2-928.

The 2001 amendments. — The 2001 amendment by c. 648, rewrote subsection A, which formerly read: "It shall be the duty of the State Board to report any violation of §§ 24.2-912, 24.2-915, 24.2-916, 24.2-917, 24.2-918, 24.2-919, 24.2-920, 24.2-923, and 24.2-924 to the appropriate attorney for the Commonwealth"; substituted "the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of Title 24.2 relating to the filing of reports with the electoral board" for "§§ 24.2-915, 24.2-916, 24.2-917, 24.2-918, 24.2-919, and 24.2-920 relating to an election for the General Assembly or for any constitutional or local office or to a local

referendum" in subsection B; in subsection C, substituted "the duty to report violations pursuant to subsections A and B, the Board shall establish and implement a system for receiving, cataloging, and reviewing reports filed pursuant to the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of Title 24.2" for "its duty to report violations, the Board shall establish and implement a system for receiving and cataloging reports filed pursuant to §§ 24.2-915 through 24.2-920 and 24.2-923," substituted "receive, catalog, and review the reports" for "catalog the reports," substituted "The State Board, or" for "The Board's instructions shall provide that" and added the last sentence; and added present subsection D; and redesignated former subsection D as present subsection E.

§ 24.2-928. (Effective July 1, 2002) Reporting of certain violations. —

A. It shall be the duty of the State Board to report any violation of the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title to the appropriate attorney for the Commonwealth. The State Board shall report to the attorney for the Commonwealth of the City of Richmond in the case of reporting requirements for statewide campaigns and for political committees and to the attorney for the Commonwealth of the county or city of the residence of a candidate for the General Assembly. If all the officers of a political committee are residents of one county or city as shown on the statement of organization filed by the committee pursuant to § 24.2-908, the State Board shall report violations for that political committee to the attorney for the Commonwealth of that county or city.

B. It shall be the duty of the electoral board of a county or city to report any violation of the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title relating to the filing of reports with the electoral board to the attorney for the Commonwealth for the county or city in which the electoral board has jurisdiction.

C. In order to fulfill the duty to report violations pursuant to subsections A and B, the Board shall establish and implement a system for receiving, cataloging, and reviewing reports filed pursuant to the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title and for verifying that reports are complete and submitted on time. As part of the system referred to in this subsection, the general registrar for each county and city, or the secretary of the electoral board in any county or city in which the electoral board chooses to perform the duties stated in this subsection, shall be required, in accordance with instructions provided by the Board, to receive, catalog, and review the reports filed with the local electoral board and to verify that the reports are complete and submitted on time. The State Board, or the general registrar or secretary of the electoral board, in accordance with the instructions of the State Board, shall notify, no later than seven days after the report due date, any person submitting an incomplete report of the need for additional information. The State Board, or the general registrar or secretary of the electoral board in accordance with the instructions of the State Board, may request additional information to correct obvious mathematical errors and to fulfill the requirements for information on the reports.

D. The State Board, and the general registrar or secretary of the electoral board in accordance with the instructions of the State Board, (i) shall assess and collect the civil penalties provided in § 24.2-929 and (ii) if unable to collect the penalty, shall report the violation to the appropriate attorney for the Commonwealth for enforcement. Each locality shall advise the State Board of penalties assessed, collected and reported to the attorney for the Commonwealth.

E. No local electoral board shall be required to retain any reports longer than one year from the date of filing the final report required by §§ 24.2-915 through 24.2-920 and 24.2-923, or any successor provision thereto, or the next general election for the office to which the report relates, whichever is later, unless a court of competent jurisdiction shall order their retention for a longer period. (1979, c. 370, § 24.1-263; 1991, c. 709; 1993, cc. 393, 641; 1994, c. 903; 1995, c. 785; 1996, cc. 395, 405; 1998, c. 153; 2001, cc. 635, 648.)

Section set out twice. — The section above is effective July 1, 2002. For this section as in effect until July 1, 2002, see the preceding section, also numbered 24.2-928.

Editor's note. — Acts 1993, c. 393, effective July 1, 1994, amended former § 24.1-263, from which this section is derived. Pursuant to § 9-

77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above, to Acts 1993, c. 393. In accordance with c. 393, the amendment added subsections C and D.

Acts 2001, c. 635, cl. 2, provides: "That the provisions of this act shall become effective on July 1, 2002."

The 2001 amendments. — The 2001 amendment by c. 635, effective July 1, 2002, rewrote subsection A to read identically to subsection A as amended by c. 648; substituted “the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title relating to the filing of reports with the electoral board” for “§§ 24.2-915, 24.2-916, 24.2-917, 24.2-918, 24.2-919, and 24.2-920 relating to an election for the General Assembly or for any constitutional or local office or to a local referendum” in subsection B, which changes were the same as those made by c. 648; in subsection C, substituted “the duty to report violations pursuant to subsections A and B, the Board shall establish and implement a system for receiving, cataloging, and reviewing reports filed pursuant to the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title” for “its duty to report violations, the Board shall establish and implement a system for receiving and cataloging reports filed pursuant to §§ 24.2-915 through 24.2-920 and 24.2-923,” substituted “receive, catalog, and review the reports” for “catalog the reports,” substituted “State Board, or the general registrar or secretary of the electoral board in accordance with the instructions of the State Board” for “The Board’s instructions shall provide that the general registrar, or secretary of the electoral board if the electoral board has so determined,” and added the last sentence, most of which changes were the same as those by c. 648; and added a present subsection D identical to the D

added by c. 648, and redesignated former subsection D as present subsection E.

The 2001 amendment by c. 648, rewrote subsection A, which formerly read: “It shall be the duty of the State Board to report any violation of §§ 24.2-912, 24.2-915, 24.2-916, 24.2-917, 24.2-918, 24.2-919, 24.2-920, 24.2-923, and 24.2-924 to the appropriate attorney for the Commonwealth”; substituted “the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of Title 24.2 relating to the filing of reports with the electoral board” for “§§ 24.2-915, 24.2-916, 24.2-917, 24.2-918, 24.2-919, and 24.2-920 relating to an election for the General Assembly or for any constitutional or local office or to a local referendum” in subsection B; in subsection C, substituted “the duty to report violations pursuant to subsections A and B, the Board shall establish and implement a system for receiving, cataloging, and reviewing reports filed pursuant to the provisions of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of Title 24.2” for “its duty to report violations, the Board shall establish and implement a system for receiving and cataloging reports filed pursuant to §§ 24.2-915 through 24.2-920 and 24.2-923,” substituted “receive, catalog, and review the reports” for “catalog the reports,” substituted “The State Board, or” for “The Board’s instructions shall provide that” and added the last sentence; and added present subsection D; and redesignated former subsection D as present subsection E.

ARTICLE 5.

Penalties.

§ 24.2-929. (Effective until July 1, 2002) Penalties for violations of chapter. — A. Any person who violates, or aids, abets, or participates in the violation of, this chapter shall be subject to a civil penalty not to exceed fifty dollars, unless a greater penalty is imposed as follows:

1. In the case of a violation of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title that relates to the filing of an incomplete report due within the 120 days before or the 35 days after a November general election date, he shall be subject to a civil penalty not to exceed \$300.

2. In the case of a violation of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title, that relates to the failure to file a required report by the deadline specified in Article 4, he shall be assessed a civil penalty not to exceed \$500. In the case of a second or any subsequent such violation pertaining to one election cycle, he shall be assessed a civil penalty of \$500 for each such failure to file. The State Board shall assess the civil penalty imposed by this subdivision and shall notify the public through the global information system known as the Internet of the violation and identity of the violator.

3. In the case of a willful violation, he shall be guilty of a Class 1 misdemeanor.

In the case of a failure to file a required report by the specified deadline, the length of the delinquency shall be a factor in determining the amount of the civil penalty assessed. The State Board shall notify the public through the global information system known as the Internet of any violation based on the

failure to file a required report by a candidate for statewide office or the General Assembly and the identity of the violator.

Upon notice of a violation of this chapter by the State Board or the general registrar or local electoral board, as appropriate, the attorney for the Commonwealth shall initiate civil proceedings to enforce the civil penalties provided herein. Any civil penalties collected pursuant to action by the State Board shall be payable to the State Treasurer for deposit to the general fund; and any civil penalties collected pursuant to action by a general registrar or local electoral board shall be payable to the treasurer of the locality for deposit to its general fund. The statute of limitations applicable to a violation of this chapter is stated in § 19.2-8. There shall be a rebuttable presumption that the violation of this chapter was willful if the violation is based on a person's failure to file a report required by this chapter and his failure to file continues for more than 60 days following his actual receipt of written notice of his failure to file sent to him by certified mail, return receipt requested, by the State Board or an electoral board.

B. Prior to assessing a penalty pursuant to this section for the filing of an incomplete report, the Secretary of the State Board or the general registrar or secretary of the local electoral board, as appropriate, shall notify, in writing, the candidate and treasurer, or person or political committee required to file a report with that board, that a filed report has not been completed, citing the omissions from the report. No penalty shall be assessed if the information required to complete the report is filed within ten days of the date of mailing the written notice.

C. If the information required to complete the report is not filed within the ten-day period, the Secretary of the State Board or the general registrar or secretary of the local electoral board, as appropriate, shall then assess against the candidate and treasurer, who shall be jointly and severally liable, or person or political committee required to file a report, a civil penalty not to exceed \$300. The Secretary of the State Board or the general registrar or secretary of the local electoral board may grant an additional period for compliance, not to exceed two weeks, to permit the completion of a filed report for good cause shown and in response to a request filed within the ten-day period. However, no additional period shall be granted thereafter for compliance.

D. The additional periods for filing specified in subsections B and C shall apply only to the completion of a timely filed report and not to any case of a failure to file a required report by the deadline specified in this chapter.

E. In the case of a failure to file the report of any large preelection contribution required by § 24.2-919, or the late or incomplete filing of such a report, there shall be a rebuttable presumption that the violation was willful. The provisions of subsections B and C of this section shall not apply to reports required by § 24.2-919. (1975, c. 515, § 24.1-262; 1990, c. 976; 1991, c. 709; 1993, c. 641; 1994, c. 752; 1995, c. 785; 2000, cc. 511, 555; 2001, cc. 620, 648.)

Section set out twice. — The section above is effective until July 1, 2002. For the version of this section effective July 1, 2002, see the following section, also numbered 24.2-929.

Cross references. — As to punishment for Class 1 misdemeanors, see § 18.2-11.

The 2000 amendments. — The 2000 amendments by cc. 511 and 555 are identical, and inserted "Upon notice of a violation of this chapter by the State Board or the local electoral board, as appropriate," at the beginning of the third sentence in subsection A; in the first sentence of subsection B, inserted "for the filing of an incomplete report," or the secretary of the

local electoral board," and "with that board"; inserted "of the State Board or the secretary of the local electoral board" in the first and second sentences of subsection C; substituted the present subsection D for the former subsection D, which referred to reports filed between July 1, 1994 and the effective date of the act; and substituted "B and C" for "B, C, and D" in the second sentence of subsection E.

The 2001 amendments. — The 2001 amendment by c. 620 divided subsection A into the present introductory language, subdivisions 1 and 3, and the last paragraph of the subsection, and in subsection A, substituted

“unless a greater penalty is imposed as follows” for “except” in the introductory language, in subdivision 1, substituted “Chapter 9 of this title that relates to the filing of an incomplete report due within the 120” for “this Chapter which relates to the filing of, or the failure to file, a report due within the one hundred twenty,” and deleted “in which case” preceding “he shall be,” added subdivision 2, and substituted “penalties” for “penalty” in the first sentence of the last paragraph.

The 2001 amendment by c. 648 divided subsection A into the present introductory language, subdivisions 1 and 3, and the last paragraph of the subsection, and in subsection A substituted “unless a greater penalty is imposed as follows” for “except in” in the introductory language; in subdivision 1, inserted “In” at

the beginning, substituted “Chapter 9 of Title 24.2 that relates to the filing of an incomplete” for “this Chapter which relates to the filing of, or the failure to file, a,” and deleted “in which case” preceding “he shall be,” added the present first two sentences of subdivision 2, added the present second paragraph of the subsection, and in the last paragraph of the subsection, substituted “penalties” for “penalty” in the first sentence, in the second sentence and inserted “pursuant to action by the State Board,” and “any civil penalties collected pursuant to action by a general registrar or local electoral board shall be payable to the treasurer of the locality for deposit to its general fund”; inserted “as appropriate” in the first sentences in subsections B and C; and inserted “general registrar or” throughout the section.

§ 24.2-929. (Effective July 1, 2002) Penalties for violations of chapter. — A. Any person who violates, or aids, abets, or participates in the violation of, this chapter shall be subject to a civil penalty not to exceed fifty dollars, unless a greater penalty is imposed as follows:

1. In the case of a violation of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title that relates to the filing of an incomplete report due within the 120 days before or the 35 days after a November general election date, he shall be subject to a civil penalty not to exceed \$300.

2. In the case of a violation of Article 4 (§ 24.2-914 et seq.) of Chapter 9 of this title, that relates to the failure to file a required report by the deadline specified in Article 4, he shall be assessed a civil penalty not to exceed \$500. In the case of a second or any subsequent such violation pertaining to one election cycle, he shall be assessed a civil penalty of \$500 for each such failure to file. The State Board shall assess the civil penalty imposed by this subdivision and shall notify the public through the global information system known as the Internet of the violation and identity of the violator.

3. In the case of a willful violation, he shall be guilty of a Class 1 misdemeanor.

In the case of a failure to file a required report by the specified deadline, the length of the delinquency shall be a factor in determining the amount of the civil penalty assessed. The State Board shall notify the public through the global information system known as the Internet of any violation based on the failure to file a required report by a candidate for statewide office or the General Assembly and the identity of the violator.

Upon notice of a violation of this chapter by the State Board or the general registrar or local electoral board, as appropriate, the attorney for the Commonwealth shall initiate civil proceedings to enforce the civil penalties provided herein. Any civil penalties collected pursuant to action by the State Board shall be payable to the State Treasurer for deposit to the general fund; and any civil penalties collected pursuant to action by a general registrar or local electoral board shall be payable to the treasurer of the locality for deposit to its general fund. The statute of limitations applicable to a violation of this chapter is stated in § 19.2-8. There shall be a rebuttable presumption that the violation of this chapter was willful if the violation is based on a person's failure to file a report required by this chapter and his failure to file continues for more than 60 days following his actual receipt of written notice of his failure to file sent to him by certified mail, return receipt requested, by the State Board or an electoral board.

B. Prior to assessing a penalty pursuant to this section for the filing of an incomplete report, the Secretary of the State Board or the general registrar or

secretary of the local electoral board, as appropriate, shall notify, in writing, the candidate and treasurer, or person or political committee required to file a report with that board, that a filed report has not been completed, citing the omissions from the report. No penalty shall be assessed if the information required to complete the report is filed within ten days of the date of mailing the written notice.

C. If the information required to complete the report is not filed within the ten-day period, the Secretary of the State Board or the general registrar or secretary of the local electoral board, as appropriate, shall then assess against the candidate and treasurer, who shall be jointly and severally liable, or person or political committee required to file a report, a civil penalty not to exceed \$300. The Secretary of the State Board or the general registrar or secretary of the local electoral board may grant an additional period for compliance, not to exceed two weeks, to permit the completion of a filed report for good cause shown and in response to a request filed within the ten-day period. However, no additional period shall be granted thereafter for compliance.

D. The additional periods for filing specified in subsections B and C shall apply only to the completion of a timely filed report and not to any case of a failure to file a required report by the deadline specified in this chapter. In the case of a failure to file a required report by the specified deadline, the length of the delinquency shall be a factor in determining the amount of the civil penalty assessed. The State Board shall notify the public through the global information system known as the Internet of any violation based on the failure to file a required report by a candidate for statewide office or the General Assembly and the identity of the violator.

E. In the case of a failure to file the report of any large preelection contribution required by § 24.2-919, or the late or incomplete filing of such a report, there shall be a rebuttable presumption that the violation was willful. The provisions of subsections B and C of this section shall not apply to reports required by § 24.2-919. (1975, c. 515, § 24.1-262; 1990, c. 976; 1991, c. 709; 1993, c. 641; 1994, c. 752; 1995, c. 785; 2000, cc. 511, 555; 2001, cc. 620, 635, 648.)

Section set out twice. — The section above is effective July 1, 2002. For this section as in effect until July 1, 2002, see the preceding section, also numbered 24.2-929.

Cross references. — As to punishment for Class 1 misdemeanors, see § 18.2-11.

Editor's note. — Acts 2001, c. 635, cl. 2, provides: "That the provisions of this act shall become effective on July 1, 2002."

The 2000 amendments. — The 2000 amendments by cc. 511 and 555 are identical, and inserted "Upon notice of a violation of this chapter by the State Board or the local electoral board, as appropriate," at the beginning of the third sentence in subsection A; in the first sentence of subsection B, inserted "for the filing of an incomplete report," "or the secretary of the local electoral board," and "with that board"; inserted "of the State Board or the secretary of the local electoral board" in the first and second sentences of subsection C; substituted the present subsection D for the former subsection D, which referred to reports filed between July 1, 1994 and the effective date of the act; and substituted "B and C" for "B, C, and D" in the second sentence of subsection E.

The 2001 amendments. — The 2001 amendment by c. 620 divided subsection A into the present introductory language, subdivisions 1 and 3, and the last paragraph of the subsection, and in subsection A, substituted "unless a greater penalty is imposed as follows" for "except" in the introductory language, in subdivision 1, substituted "Chapter 9 of this title that relates to the filing of an incomplete report due within the 120" for "this Chapter which relates to the filing of, or the failure to file, a report due within the one hundred twenty," and deleted "in which case" preceding "he shall be," added subdivision 2, and substituted "penalties" for "penalty" in the first sentence of the last paragraph.

The 2001 amendment by c. 635, effective July 1, 2002, inserted "general registrar or" throughout the section; in subsection A, inserted "pursuant to action by the State Board," and inserted "and any civil penalties collected pursuant to action by a general registrar or local electoral board shall be payable to the treasurer of the locality for deposit to its general fund" in the present second sentence of the third paragraph; inserted "as appropriate" in

the first sentences of subsections B and C; and added the second and third sentences in subsection D.

The 2001 amendment by c. 648 divided subsection A into the present introductory language, subdivisions 1 and 3, and the last paragraph of the subsection, and in subsection A substituted "unless a greater penalty is imposed as follows" for "except in" in the introductory language; in subdivision 1, inserted "In" at the beginning, substituted "Chapter 9 of Title 24.2 that relates to the filing of an incomplete" for "this Chapter which relates to the filing of, or the failure to file, a," and deleted "in which

case" preceding "he shall be," added the present first two sentences of subdivision 2, added the present second paragraph of the subsection, and in the last paragraph of the subsection, substituted "penalties" for "penalty" in the first sentence, in the second sentence and inserted "pursuant to action by the State Board," and "any civil penalties collected pursuant to action by a general registrar or local electoral board shall be payable to the treasurer of the locality for deposit to its general fund"; inserted "as appropriate" in the first sentences in subsections B and C; and inserted "general registrar or" throughout the section.

§ 24.2-930. Civil penalties for late and incomplete filings for statewide campaigns. — A. In addition to the penalties provided in § 24.2-929, any candidate for Governor, Lieutenant Governor, or Attorney General, and his campaign treasurer, who fail to file any report required in § 24.2-916 in a timely manner or file an incomplete report may be assessed a civil penalty by the Secretary of the State Board pursuant to this section.

B. Prior to assessing a penalty pursuant to this section, the Secretary shall notify the candidate and treasurer in writing that a report has not been filed or that a filed report has not been completed, citing the omissions from the report. No penalty shall be assessed pursuant to this section if the report or information required to complete the report is filed within seven days of the date of mailing the written notice.

C. If the report or information required to complete the report is not filed within the seven-day period, the Secretary shall assess against the candidate and treasurer, who shall be jointly and severally liable, a civil penalty of \$300 for each day that the violation continues on and after the eighth day following the date of mailing the written notice. The Secretary may grant an additional period for compliance, not to exceed two weeks, for good cause shown and in response to a request filed within the seven-day period. However, no additional period shall be granted for compliance with the requirement under subdivision 8 of § 24.2-916 to file a report not later than the eighth day before the election. The Secretary shall notify the public through the global information system known as the Internet of the violation and identity of the violator.

D. If requested by the Secretary, the attorney for the Commonwealth of the City of Richmond shall assist the Secretary in collecting the civil penalty.

E. Any candidate or treasurer aggrieved by the assessment shall have a right to the direct review of the assessment by a court of competent jurisdiction as provided in the Administrative Process Act (§ 2.2-4000 et seq.). The provisions of the Act shall not apply, however, to the assessment of civil penalties by the Secretary pursuant to this section.

F. Civil penalties collected pursuant to this section shall be payable to the State Treasurer for deposit to the general fund. (1991, c. 548, § 24.1-263.1; 1993, c. 641; 2001, c. 620.)

The 2001 amendments. — The 2001 amendment by c. 620, in subsection C, substituted "penalty of \$300" for "penalty of \$100" in the first sentence, substituted "subdivision 8" for "subdivision 7" in the third sentence, and substituted "notify the public through the glo-

bal information system known as the Internet of the violation and identity of the violator" for "then also make available to the public at his office a list of candidates who have failed to file or have filed incomplete reports" in the last sentence.

CHAPTER 9.1.

CAMPAIGN FUNDRAISING; LEGISLATIVE SESSIONS.

Sec.

24.2-940. Campaign fundraising; legislative sessions; penalties.

§ 24.2-940. Campaign fundraising; legislative sessions; penalties. --

A. No member of the General Assembly or statewide official and no campaign committee of a member of the General Assembly or statewide official shall solicit or accept a contribution for the campaign committee of any member of the General Assembly or statewide official, or for any political committee, from any person or political committee on and after the first day of a regular session of the General Assembly through adjournment sine die of that session.

B. No person or political committee shall make or promise to make a contribution to a member of the General Assembly or statewide official or his campaign committee on and after the first day of a regular session of the General Assembly through adjournment sine die of that session.

C. The restrictions of this section shall not apply to a contribution (i) made by a member of the General Assembly or statewide official from his personal funds or (ii) made to the campaign committee of a candidate in a special election.

D. As used in this section:

“Adjournment sine die” means adjournment on the last legislative day of the regular session, and such session does not include the ensuing reconvened session;

“Campaign committee,” “contribution,” “person,” and *“political committee”* shall be defined as provided in § 24.2-901 except that *“contribution”* shall not include money, services, or things of value in any way provided by a candidate to his own campaign and the payment by the candidate of any primary filing fee;

“Solicit” means request a contribution, orally or in writing, but shall not include a request for support of a candidate or his position on an issue; and

“Statewide official” means the Governor, Lieutenant Governor, and Attorney General.

E. Any person who violates, or aids, abets, or participates in the violation of, this section shall be subject to a civil penalty equal to the amount of the prohibited contribution or promised contribution or \$500, whichever amount is greater. The attorney for the Commonwealth shall initiate civil proceedings to enforce the civil penalty provided herein. Any civil penalties collected shall be payable to the State Treasurer for deposit to the general fund. (1997, c. 876.)

CHAPTER 10.

ELECTION OFFENSES GENERALLY; PENALTIES.

Sec.

24.2-1000. Bribery, intimidation, etc., of officers of election.

24.2-1001. Willful neglect or corrupt conduct.

24.2-1002. Interference with registration.

24.2-1002.01. Destruction of, or failure to mail or deliver, voter registration application; penalty.

Sec.

24.2-1002.1. Unlawful disclosure or use of social security number.

24.2-1003. Campaigning at registration locations.

24.2-1004. Illegal voting and registrations.

24.2-1005. Bribery, intimidation, etc., of person receiving ballot.

- Sec.
 24.2-1006. Advice or assistance in casting ballot.
 24.2-1007. Soliciting or accepting bribe to influence or procure vote.
 24.2-1008. Selling, giving away, or counterfeiting ballots.
 24.2-1009. Stealing or tampering with ballot boxes, voting or registration equipment, records or documents.
 24.2-1010. Unauthorized possession of voting equipment key.
 24.2-1011. Ballot not to be carried away.
 24.2-1012. Offenses as to absent voters.
 24.2-1013. Publications not to receive compensation for advocating candi-

- Sec.
 24.2-1014. Identifying persons responsible for campaign advertisements; penalties; proof of identity.
 24.2-1014.1. Identifying persons responsible for campaign telephone calls; penalties.
 24.2-1015. Conspiracy against rights of citizens under this title.
 24.2-1016. False statements; penalties.
 24.2-1017. Penalties when not specifically provided elsewhere.
 24.2-1018. Immunity of witnesses.
 24.2-1019. Complaints and allegations concerning election law offenses.

§ 24.2-1000. Bribery, intimidation, etc., of officers of election. — Any person who, by bribery, intimidation, or other means in violation of the election laws, willfully hinders or prevents, or attempts to hinder or prevent, the officers of election at any precinct from holding an election shall be guilty of a Class 5 felony. (Code 1950, § 24-191; 1970, c. 462, § 24.1-264; 1993, c. 641.)

Cross references. — As to punishment for Class 5 felonies, see § 18.2-10. reform in Virginia, see 12 Wm. & Mary L. Rev. 333 (1970).

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§ 24.2-1001. Willful neglect or corrupt conduct. — A. If any officer of election, member of an electoral board, or other person on whom any duty is enjoined by law relative to any election, is guilty of willful neglect of his duty, he shall be guilty of a Class 1 misdemeanor.

B. If any person listed in subsection A is guilty of any corrupt conduct in the execution of his duty, he shall be guilty of a Class 5 felony. (Code 1950, § 24-212; 1970, c. 462, § 24.1-266; 1991, c. 710; 1993, c. 641.)

Cross references. — As to punishment for Class 5 felonies, see § 18.2-10. As to punishment for Class 1 misdemeanors, see § 18.2-11.

§ 24.2-1002. Interference with registration. — Any person who, by threats or force, interferes with or attempts to interfere with (i) any registrar in the discharge of his duty, (ii) any person applying to register, or (iii) any person going to or leaving a registration location shall be guilty of a Class 1 misdemeanor. (Code 1950, § 24-116; 1970, c. 462, § 24.1-265; 1984, c. 480, § 24.1-49.01; 1993, c. 641.)

Cross references. — As to punishment for Class 1 misdemeanors, see § 18.2-11.

§ 24.2-1002.01. Destruction of, or failure to mail or deliver, voter registration application; penalty. — If any person (i) agrees to mail or deliver a signed voter registration application to the voter registrar or other appropriate person authorized to receive the application and (ii) intentionally interferes with the applicant's effort to register either by destroying the application or by failing to mail or deliver the application in a timely manner, he shall be guilty of a Class 1 misdemeanor. The mailing or delivery of an application shall be deemed timely for the purposes of this section if it is

mailed or delivered within 15 days of the applicant's signature or in accordance with the provisions of § 24.2-416.4 for processing before the closing of the registration records for the pending election whichever comes first. This section shall not apply to any state or local government employee acting in his official capacity. (1997, c. 337.)

Cross references. — As to punishment for Class 1 misdemeanors, see § 18.2-11.

§ 24.2-1002.1. Unlawful disclosure or use of social security number. — Any person who discloses or makes any use of the social security number of any applicant for voter registration, except as authorized by law for official use, shall be guilty of a Class 5 felony. (1996, cc. 72, 73.)

Cross references. — As to punishment for Class 5 felonies, see § 18.2-10.

§ 24.2-1003. Campaigning at registration locations. — Any person who gives or tenders any campaign materials to, or solicits or attempts to influence the vote of, any person while he is at any registration location, knowing that such person is there for the purpose of registration, shall be guilty of a Class 3 misdemeanor. Nothing in this section shall prohibit the distribution of campaign materials outside any building in which a registration activity is being conducted. (1984, c. 480, § 24.1-49.01; 1993, c. 641.)

Cross references. — As to punishment for Class 3 misdemeanors, see § 18.2-11.

§ 24.2-1004. Illegal voting and registrations. — A. Any person who (i) votes knowing that he is not qualified to vote where and when the vote is to be given, (ii) procures, assists, or induces another to vote, knowing that such person is not qualified to vote where and when the vote is to be given, or (iii) wrongfully deposits a ballot in the ballot box or casts a vote on any voting equipment, is guilty of a Class 1 misdemeanor.

B. Any person who intentionally (i) votes more than once in the same election, whether those votes are cast in Virginia or in Virginia and any other state or territory of the United States, or (ii) procures, assists, or induces another to vote more than once in the same election, whether those votes are cast in Virginia or in Virginia and any other state or territory of the United States, is guilty of a Class 6 felony.

C. Any person who intentionally (i) registers to vote at more than one residence address at the same time, whether such registrations are in Virginia or in Virginia and any other state or territory of the United States, or (ii) procures, assists, or induces another to register to vote at more than one address at the same time, whether such registrations are in Virginia or in Virginia and any other state or territory of the United States, is guilty of a Class 6 felony. This subsection shall not apply to any person who, when registering to vote, changing the address at which he is registered, transferring his registration, or assisting another in registering, changing his address, or transferring his registration, provides the information required by § 24.2-418 on the applicant's place of last previous registration to vote. (Code 1950, §§ 24-450, 24-451; 1970, c. 462, § 24.1-268; 1993, c. 641; 2001, c. 636.)

Cross references. — As to punishment for Class 1 misdemeanors, see § 18.2-11. As to punishment for Class 6 felonies, see § 18.2-10.

Editor's note. — Acts 2001, c. 636, cl. 2, provides: "That the provisions of this act may result in a net increase in periods of imprison-

ment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0."

The 2001 amendments. — The 2001

amendment by c. 636 added the subsection A designator, and substituted "is guilty" for "shall be guilty" near the end of said subsection; and added subsections B and C.

§ 24.2-1005. Bribery, intimidation, etc., of person receiving ballot. — Any person who (i) by threats, bribery, or other means in violation of the election laws, attempts to influence any person in giving his vote or ballot or by such means attempts to deter him from voting; (ii) furnishes a ballot to a person who he knows cannot understand the language in which the ballot is printed and misinforms him as to the content of the ballot with an intent to deceive him and induce him to vote contrary to his desire; or (iii) changes a ballot of a person to prevent the person from voting as he desired, shall be guilty of a Class 1 misdemeanor.

This section applies to any election and to any method used by a political party for selection of its nominees and for selection of delegates to its conventions and meetings. (1970, c. 462, § 24.1-271; 1993, c. 641.)

Cross references. — As to punishment for Class 1 misdemeanors, see § 18.2-11.

§ 24.2-1006. Advice or assistance in casting ballot. — Except as provided by § 24.2-649, no person shall directly or indirectly advise or assist any voter as to how he shall cast his ballot after the voter has entered the prohibited area at the polls as designated in § 24.2-604. Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor. (Code 1950, § 24-237; 1970, c. 462, § 24.1-267; 1993, c. 641.)

Cross references. — As to punishment for Class 1 misdemeanors, see § 18.2-11.

§ 24.2-1007. Soliciting or accepting bribe to influence or procure vote. — No person shall solicit or accept directly or indirectly any money or any thing of value to influence his or another's vote in any election. Any person violating the provisions of this section shall be guilty of a Class 1 misdemeanor.

This section applies to any election and to any method used by a political party for selection of its nominees and for selection of delegates to its conventions and meetings. (Code 1950, §§ 24-405, 24-452; 1952, c. 4; 1970, c. 462, § 24.1-272; 1976, c. 616; 1993, c. 641.)

Cross references. — As to punishment for Class 1 misdemeanors, see § 18.2-11.

§ 24.2-1008. Selling, giving away, or counterfeiting ballots. — Any person who (i) wrongfully sells or gives to any person an official ballot or copy or a facsimile of or device or plate used to reproduce such ballot or (ii) counterfeits or attempts to counterfeit the official ballot or the seal used on that ballot, shall be guilty of a Class 5 felony. (Code 1950, § 24-239; 1970, c. 462, § 24.1-270; 1991, c. 710; 1993, c. 641.)

Cross references. — As to punishment for Class 5 felonies, see § 18.2-10.

Former § 24.1-270 was mandatory. — While statutes regulating elections are most frequently construed to be directory, and the provisions relating to printing, counting, sealing, certifying, and delivering the ballots are to

be so construed in a case affecting the right of a voter to cast his vote, or affecting the result of an election because of the mistake or misdeed of a member or members of the electoral board or other election officer, yet when the Commonwealth is seeking to incarcerate in jail one of its citizens for violating one of the provisions of the

election law, the rule of construction is not the same, and the provisions of former § 24.1-270, when invoked for the punishment of a crime, were mandatory. *Xippas v. Commonwealth*, 141 Va. 497, 126 S.E. 207 (1925) (decided under prior law).

It applies to primaries. — In view of the provisions of former § 24.1-178, former § 24.1-270 applied to a primary election. *Xippas v. Commonwealth*, 141 Va. 497, 126 S.E. 207 (1925) (decided under prior law).

Offense is not limited to day of election. — The offense in former § 24.1-270 as to giving away or selling official ballot is not limited in its scope to the day of election, but is expressly intended to include any day on which the act done may affect the secrecy, regularity, fairness, or purity of the election or primary at which the official ballot is to be used. *Xippas v. Commonwealth*, 141 Va. 497, 126 S.E. 207 (1925) (decided under prior law).

Violator is presumed to know law. — In an indictment for giving away official ballots, there is a presumption of law that the accused was cognizant of the fact of the existence of former § 24.1-270, which has been in force for many years. *Xippas v. Commonwealth*, 141 Va. 497, 126 S.E. 207 (1925) (decided under prior law).

Sufficiency of allegations in indictment. — The naming of the date on which the election was held in the indictment, following the use of the words "said election," left no room for doubt that the election referred to was the primary provided by former § 24.1-174, to be held to nominate candidates to such offices as are set forth in former § 24.1-171. It was not necessary to allege in the indictment that the primary was held according to law. *Xippas v. Commonwealth*, 141 Va. 497, 126 S.E. 207 (1925) (decided under prior law).

§ 24.2-1009. Stealing or tampering with ballot boxes, voting or registration equipment, records or documents. — Any person who (i) steals or willfully, fraudulently, and wrongfully tampers with any part of any ballot box, voting or registration equipment, records, or documents, which are used in any way within the registration or election process, (ii) fraudulently makes any entry, deletion, or alteration to any item listed in (i), or (iii) aids, abets, or permits any other person to violate the provisions of clause (i) or (ii), shall be guilty of a Class 5 felony. (Code 1950, §§ 24-318, 24-404; 1952, c. 4; 1970, c. 462, §§ 24.1-273, 24.1-275; 1981, c. 425; 1991, c. 710; 1993, c. 641.)

Cross references. — As to punishment for Class 5 felonies, see § 18.2-10.

§ 24.2-1010. Unauthorized possession of voting equipment key. — Any unauthorized person found in possession of any voting equipment key shall be guilty of a Class 1 misdemeanor. (Code 1950, § 24-318; 1970, c. 462, § 24.1-275; 1991, c. 710; 1993, c. 641.)

Cross references. — As to punishment for Class 1 misdemeanors, see § 18.2-11.

§ 24.2-1011. Ballot not to be carried away. — It shall be unlawful for any person to carry the official ballot furnished him by the officers of the election further than the voting booth, and should he, after receiving the ballot, conclude not to vote, he shall immediately return the ballot to the officers. Any person who (i) carries an official ballot or copy thereof beyond or away from the voting booth, except to the officers of election, or (ii) votes any ballot except the ballot received from the officers of election, shall be guilty of a Class 1 misdemeanor. (Code 1950, § 24-236; 1970, c. 462, § 24.1-269; 1993, c. 641.)

Cross references. — As to punishment for Class 1 misdemeanors, see § 18.2-11.

§ 24.2-1012. Offenses as to absent voters. — Any person who knowingly aids or abets or attempts to aid or abet a violation of the absentee voting

procedures prescribed in Chapter 7 (§ 24.2-700 et seq.) shall be guilty of a Class 5 felony.

Any person attempting to vote by fraudulently signing the name of a qualified voter shall be guilty of forgery and shall be guilty of a Class 4 felony.

Any public official who knowingly violates any of the provisions of the law concerning absent voters and thereby aids in any way the illegal casting, or attempting to cast a vote, or who connives to nullify any provisions of this chapter in order that fraud may be perpetrated, shall forever be disqualified from holding office in the Commonwealth and shall forever be disqualified from exercising the right of franchise. (Code 1950, § 24-345; 1956, c. 382; 1970, c. 462, § 24.1-274; 1993, c. 641.)

Cross references. — As to punishment for Class 4 and 5 felonies, see § 18.2-10.

§ 24.2-1013. Publications not to receive compensation for advocating candidacy; penalties; proof of identity. — A. It shall be unlawful for any owner, proprietor, editor, manager, officer, clerk, agent, reporter, or employee of any newspaper, magazine, or periodical printed or published in this Commonwealth to accept or receive or agree to accept or receive, for himself or another, any money or other valuable consideration for such newspaper, magazine, or other periodical supporting or advocating the election or defeat of any candidate. But nothing in this section shall prevent any person, firm, or corporation engaged in the publication of any newspaper, magazine or periodical from receiving from any person compensation for printing and publishing any matter, article or articles advocating the election or defeat of any candidate, if a statement, "Paid Advertisement," appears in plain type in boldface Roman capitals in a conspicuous place at the beginning of the matter or article and the matter or article otherwise complies with the provisions of § 24.2-1014.

B. The person accepting a "Paid Advertisement" for the newspaper, magazine or periodical shall require, and for one year shall retain a copy of, proof of the identity of the person who submits the advertisement for publication when the authorization statement on the advertisement is made pursuant to subdivision B 3 b of § 24.2-1014. Proof of identity shall be submitted either (i) in person and include a valid Virginia driver's license, or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States, or (ii) other than in person, in which case, the person submitting the advertisement shall provide a telephone number and the person accepting the advertisement may phone the person to verify the validity of the person's identifying information before publishing the advertisement.

C. Any such owner, proprietor, editor, manager, officer, clerk, agent, reporter, or employee violating the provisions of subsection A or B shall be subject to a civil penalty not to exceed fifty dollars; and, in the case of a willful violation, he shall be guilty of a Class 1 misdemeanor. The procedure to enforce the civil penalty provided in this section shall be as stated in § 24.2-929. (Code 1950, § 24-406; 1952, c. 4; 1970, c. 462, § 24.1-276; 1991, c. 709; 1993, c. 641; 2001, c. 747.)

Cross references. — As to punishment for Class 1 misdemeanors, see § 18.2-11.

The 2001 amendments. — The 2001 amendment by c. 747 added present subsection

B and redesignated former subsection B as subsection C; and substituted "subsection A or B shall" for "subsection A shall" in subsection C.

§ 24.2-1014. Identifying persons responsible for campaign advertisements; penalties; proof of identity. — A. As used in this section “advertisement” includes any printed or otherwise reproduced material that contains a statement or statements made for the purpose of influencing the outcome of an election for public office, but shall not include: (i) editorial comment or news coverage that is sponsored and financed by the news medium publishing or broadcasting it; (ii) novelties, authorized by the candidate, including, but not limited to, pens, pencils, and buttons to be attached to wearing apparel; or (iii) signs and billboards larger than six square feet in area and authorized by the candidate that show only the candidate’s name and one or more of the following facts: the candidate’s political party, the elected office held, the elected office sought, or the date of the election.

B. It shall be unlawful for any person to cause any advertisement other than a television or radio broadcast to appear concerning any clearly identified candidate unless such advertisement plainly identifies the person or entity responsible for it. The advertisement shall carry the statement “authorized by” and contain the following information to complete the statement:

1. The name of the candidate if the advertisement is authorized by the candidate or his campaign committee;

2. The name of the political party committee if the advertisement is authorized by that committee; or

3. If authorized by any person other than the candidate, his campaign committee, or a political party committee, either:

a. In the case of a committee that has filed a statement of organization under § 24.2-908, the full name of the committee and a registration number provided by the State Board, or

b. In any other case, the full name and residence address of the individual responsible for the advertisement.

C. It shall be unlawful for any person to use a false or fictitious name or address on any such advertisement described in subsection B.

D. It shall be unlawful for any person to cause any radio or television or other electronically transmitted statement to appear concerning any clearly identified candidate unless the advertisement or statement contains information that plainly identifies the candidate, committee, individual, or entity responsible for it and provides, as a minimum, the information required by subsection B.

E. The person accepting an advertisement for a radio or television station shall require, and for one year shall retain a copy of, proof of the identity of the person who submits the advertisement for broadcast when the authorization statement on the advertisement would be made pursuant to subdivision B 3 b of § 24.2-1014 in the case of a publication. Proof of identity shall be submitted either (i) in person and include a valid Virginia driver’s license, or any other identification card issued by a government agency of the Commonwealth, one of its political subdivisions, or the United States, or (ii) other than in person, in which case, the person submitting the advertisement shall provide a telephone number and the person accepting the advertisement may phone the person to verify the validity of the person’s identifying information before broadcasting the advertisement.

F. Any person violating any provision of this section shall be subject to a civil penalty not to exceed fifty dollars; and, in the case of a willful violation, he shall be guilty of a Class 1 misdemeanor. The procedure to enforce the civil penalty provided in this section shall be as stated in § 24.2-929. The violation of this section shall not void any election. (Code 1950, § 24-456; 1956, c. 398; 1970, c. 462, § 24.1-277; 1972, c. 620; 1973, c. 30; 1975, c. 515; 1976, c. 616; 1981, c. 425; 1982, c. 650; 1991, c. 709; 1993, c. 641; 1996, c. 1042; 2000, c. 539; 2001, c. 747.)

Cross references. — As to punishment for misdemeanors for which no punishment is prescribed, see § 18.2-12. As to punishment for Class 1 misdemeanors, see § 18.2-11.

The 2000 amendments. — The 2000 amendment by c. 539, in the catchline, substituted “advertisements” for “writing” and substituted “advertisement” for “writing” throughout the section; in subsection A, substituted “material that contains a statement or statements” for “statement or advertisement,” inserted the clause (i) and (ii) designators, and in clause (i), substituted “that” for “which” following “news coverage,” deleted “nor writings authorized by the candidate on” following “broadcasting it,” in clause (ii), inserted “authorized by the candidate” and added “or” at the end, and added clause (iii); in subsection D, inserted “or other electronically transmitted” and substituted “that” for “which” following “information.”

The 2001 amendments. — The 2001 amendment by c. 747 inserted “and provides, as a minimum, the information required by subsection B” at the end of subsection D; added present subsection E; and redesignated former subsection E as subsection F.

Count relating to Virginia Fair Elections Practices Act dismissed. — Where count alleged that various provisions of the Virginia Fair Elections Practices Act, § 24.1-251 et seq., constituted a system of prior restraint in violation of the First and Fourteenth Amendments to the Constitution, the district court properly dismissed the count. The statutes had been amended and the statutes which plaintiffs challenged were no longer the stat-

utes in effect in Virginia. In addition, no evidence existed that the plaintiffs were currently under actual or threatened application of the new Virginia Campaign Finance Disclosure Act, § 24.2-900 et seq. *Jordahl v. Democratic Party*, 122 F.3d 192 (4th Cir. 1997).

Where plaintiffs would be irreparably harmed were preliminary injunction not to issue, defendants would not be irreparably harmed by the issuance of a preliminary injunction, and plaintiffs showed a likelihood of success on the merits, the public interest would be served by the court’s injunction. *Virginia Soc’y for Human Life, Inc. v. Caldwell*, 906 F. Supp. 1071 (W.D. Va. 1995).

Where plaintiffs filed 42 U.S.C. § 1983 claims for injunction injuries, claims dismissed. — Where defendant filed complaints against plaintiffs alleging that plaintiffs were violating the Virginia Fair Elections Practices Act, former § 24.1-251 et seq., and state courts entered orders enjoining plaintiffs from distributing political literature, and where plaintiffs filed 42 U.S.C. § 1983 claims for injuries caused by these injunctions, plaintiffs’ claims were properly dismissed under the Rooker-Feldman Doctrine. *Jordahl v. Democratic Party*, 122 F.3d 192 (4th Cir. 1997).

Section requires identification of authorship only on writings “made for the purpose of influencing the outcome of an election for public office” and excludes writings that are limited to issue advocacy. *Virginia Soc’y for Human Life, Inc. v. Caldwell*, 256 Va. 151, 500 S.E.2d 814 (1998).

§ 24.2-1014.1. Identifying persons responsible for campaign telephone calls; penalties. — A. As used in this section, the term “campaign telephone calls” means a series of telephone calls, electronic or otherwise, made (i) to twenty-five or more telephone numbers in the Commonwealth, (ii) during the 180 days before a general or special election or during the ninety days before a primary, (iii) conveying or soliciting information relating to any candidate or political party participating in the election or primary, and (iv) under an agreement to compensate the telephone callers.

B. It shall be unlawful for any person to make campaign telephone calls without disclosing before the conclusion of each telephone call, information to identify the person who has authorized and is paying for the calls unless such call is terminated prematurely by means beyond the maker’s control.

The person making the campaign telephone calls shall disclose the following identifying information:

1. The name of the candidate if the calls are authorized by the candidate, his campaign committee, or an agent of the candidate or his campaign committee;
2. The name of the political party committee if the calls are authorized by that committee or an agent of that committee; or
3. If authorized by any person other than a candidate, his campaign committee, or a political party committee or an agent thereof, either:
 - a. In the case of a committee that has filed a statement of organization under § 24.2-908, the full name of the committee and a registration number provided by the State Board, or

b. In any other case, the full name and residence address of the individual responsible for the campaign telephone calls.

C. It shall be unlawful for any person who contracts for campaign telephone calls to fail to provide to the persons making the telephone calls the identifying information required by this section.

D. It shall be unlawful for any person to provide a false or fictitious name or address when providing the identifying information required under subsection B.

E. Any person violating any provision of this section shall be subject to a civil penalty not to exceed twenty-five hundred dollars; and, in the case of a willful violation, he shall be guilty of a Class 1 misdemeanor. The procedure to enforce the civil penalty provided in this section shall be as stated in § 24.2-929. The violation of this section shall not void any election. (2000, c. 874.)

Cross references. — As to punishment for Class 1 misdemeanors, see § 18.2-11.

§ 24.2-1015. Conspiracy against rights of citizens under this title. — If two or more persons conspire to injure, oppress, threaten, intimidate, prevent, or hinder any citizen of this Commonwealth in the free exercise or enjoyment of any right or privilege secured to him by the provisions of this title, or because of his having so exercised such right, they shall be guilty of a Class 5 felony. (1970, c. 462, § 24.1-278; 1991, c. 710; 1993, c. 641.)

Cross references. — As to punishment for Class 5 felonies, see § 18.2-10.

§ 24.2-1016. False statements; penalties. — Any willfully false material statement or entry made by any person in any statement, form, or report required by this title shall constitute the crime of election fraud and be punishable as a Class 5 felony. Any preprinted statement, form, or report shall include a statement of such unlawful conduct and the penalty provided in this section. (Code 1950, § 24-68; 1952, c. 341; 1958, c. 576; 1960, c. 288; 1962, c. 536; 1970, c. 462, §§ 24.1-48, 24.1-279; 1971, Ex. Sess., c. 205; 1972, c. 620; 1974, c. 428; 1975, c. 515; 1977, c. 490; 1978, c. 778; 1980, c. 639; 1989, c. 138; 1992, c. 433; 1993, c. 641.)

Cross references. — As to punishment for Class 5 felonies, see § 18.2-10.

Voter registration card a "statement, form or report." — Since it is plain, pursuant to this title, that a voter registration card must be filed in order to establish the qualification to vote, and since that qualification to vote in the primary in which a person seeks to be a candidate is necessary to qualify as a candidate, a voter registration card is a "statement, form or report" required by this title. *Wilson v. Commonwealth*, No. 2061-98-4 (Ct. of Appeals May 2, 2000).

Where defendant, an experienced candidate familiar with the reporting mandates of the Virginia election law, received money following the November election that was intended to defray the cost of the recount proceed-

ing and then failed to include this money in his report of contributions that he signed under oath, a reasonable juror could infer that defendant intentionally did not disclose this money and willfully swore falsely that his report was complete. *Waldrop v. Commonwealth*, 23 Va. App. 614, 478 S.E.2d 723 (1996).

Evidence of election fraud sufficient. — Evidence was sufficient to support a defendant's conviction for election fraud where the evidence established that the voter registration card or form filled out by the defendant included a statement that was required by this title, and that the defendant had made a willfully false statement on that form in that the address she provided was not the address of her residence. *Wilson v. Commonwealth*, No. 2061-98-4 (Ct. of Appeals May 2, 2000).

§ 24.2-1017. Penalties when not specifically provided elsewhere. — Any conduct made unlawful by this title, for which no punishment has been otherwise provided, shall be a Class 1 misdemeanor. (Code 1950, § 24-455; 1970, c. 462, § 280; 1993, c. 641.)

Cross references. — As to punishment for Class 1 misdemeanors, see § 18.2-11.

§ 24.2-1018. Immunity of witnesses. — No witness called by the court or attorney for the Commonwealth and giving evidence for the prosecution, either before a grand jury or the court in any prosecution under this title, shall ever be proceeded against for any offense made penal by the provisions of this title and committed by him at or in connection with the events germane to the matter being prosecuted; but such witness shall be compelled to testify, and for refusing to answer questions, he may be punished for contempt by the court. (Code 1950, § 24-449; 1954, c. 347; 1970, c. 462, § 24.1-281; 1993, c. 641.)

Constitutional guaranty against self-incrimination is not violated. — The immunity afforded by former § 24.1-281 is complete with respect to offenses against the chapter within the terms of which the immunity is found. The indemnity afforded the witness is complete, and a compulsory answer to questions touching the violation of the election law does not violate the constitutional guaranty against self-incrimination. *Flanary v. Commonwealth*, 113 Va. 775, 75 S.E. 289 (1912) (decided under prior law).

Immunity extends to offenses against all election laws. — A witness who has testified as to violations of the provisions of former Chapter 10 of Title 24.1, and whose evidence was directed specially to violations of former Chapter 10 of Title 24.1, is, by former § 24.1-281, immune from prosecution for any offense against former Chapter 10 of Title 24.1 or

against the other election laws committed by him at or in connection with the same election. *Stanley v. Commonwealth*, 116 Va. 1028, 82 S.E. 691 (1914). See also *Flanary v. Commonwealth*, 113 Va. 775, 75 S.E. 289 (1912) (decided under prior law).

Inquiry before grand jury is "proceeding." — If a witness is called upon to testify before a grand jury in any proceeding before that body, although there may be no indictment, presentment, or information, but merely an inquiry by the grand jury, instituted by the grand jury itself, as to violations of former Chapter 10 of Title 24.1, the witness is entitled to invoke the benefit of former § 24.1-281, which shields him from prosecution. The inquiry before the grand jury is a "proceeding" within the meaning of former § 24.1-281. *Flanary v. Commonwealth*, 113 Va. 775, 75 S.E. 289 (1912) (decided under prior law).

§ 24.2-1019. Complaints and allegations concerning election law offenses. — Any complaint or allegation concerning unlawful conduct under this title shall be filed with the attorney for the Commonwealth of the county or city in which the alleged violation occurred. In the case of a complaint or allegation concerning the filing of a false statement in a voter registration application, the violation shall be deemed to have occurred in the county or city where the applicant sought to be registered. (1983, c. 461, § 24.1-282; 1993, c. 641; 1999, c. 374.)

The 1999 amendment added the second sentence.

Appendix A

Election Provisions of Virginia Code and Constitution

Constitution of Virginia	
Art. I, §§ 2-6	Bill of Rights; free elections.
Art. II, §§ 1-9	Franchise and Officers. (Included in this volume)
Art. IV, § 4	Qualifications of senators and delegates.
Art. IV, § 17	Impeachment.
Art. V, §§ 1-3	Governor: term, election and qualifications.
Art. V, § 12	Executive clemency.
Art. V, § 13	Lieutenant Governor: election and qualifications.
Art. V, § 15	Attorney General: election and qualifications.
Art. V, § 16	Succession to the office of Governor.
Art. VII, §§ 4, 6, 10	County and city officers; Multiple offices; Debt.
Art. VIII, § 7	School Boards.
Art. XII, §§ 1, 2	Future changes: amendments, constitutional convention.

Code of Virginia	
2.1-121.1	(Repealed effective October 1, 2001; see 2.2-508) Legal service in certain redistricting proceedings.
2.1-340 - 2.1-346.5	(Repealed effective October 1, 2001; see 2.2-3700 - 2.2-3714, and 30-178 - 30-181) Virginia Freedom of Information Act.
2.1-341.2	(Repealed effective October 1, 2001; see 2.2-3703) Freedom of Information Act: voter registration and election records.
2.1-639.1 - 2.1-639.24	(Repealed effective October 1, 2001; see 2.2-3100 - 2.2-3127) State and Local Government Conflict of Interests Act.
2.1-639.30 - 2.1-639.61	(Repealed effective October 1, 2001; see 30-100 - 30-129) General Assembly Conflict of Interests Act.
2.1-779 - 2.1-794	(Repealed effective October 1, 2001; see 2.2-418 - 2.2-435) Lobbyist disclosure and registration.
2.2-418 - 2.2-435	(Effective October 1, 2001) Lobbyist disclosure and registration.

Code of Virginia	
2.2-508	(Effective October 1, 2001) Legal service in certain redistricting proceedings.
2.2-3100 - 2.2-3127	(Effective October 1, 2001) State and Local Government Conflict of Interests Act.
2.2-3700 - 2.2-3714	(Effective October 1, 2001) Virginia Freedom of Information Act.
2.2-3703	(Effective October 1, 2001) Freedom of Information Act: voter registration and election records.
4.1-121 - 4.1-127	Alcoholic beverages; referenda.
10.1-506 - 10.1-530	Soil and Water Conservation Districts; establishment, qualification of candidates, elections, terms.
10.1-536	Soil and Water Conservation District Directors: Removal from office.
10.1-614 - 10.1-635	Watershed improvement districts; referenda.
11-35 - 11-80	(Repealed effective October 1, 2001; see 2.2-4300 - 2.2-4377) Virginia Public Procurement Act.
15.2-102	Local government, definitions.
15.2-201	Charter elections; subsequent procedure; procedure when bill not introduced or fails to pass in General Assembly.
15.2-300 - 15.2-307	Optional forms of county government: petitions; election; how supervisors elected. (Note, 15.2-300 - 15.2-858 concern various <i>optional</i> forms of county government. Provisions for local governments in general begin at 15.2-900.)
15.2-402	County board form of govt.: Board of county supervisors; election; terms; chairman; vacancies.
15.2-408	County board form of govt.: Constitutional officers; vacancies.
15.2-502	County executive form of govt.: Board of supervisors; election; terms; chairman; vacancies.
15.2-503	County executive form of govt.: Referendum on election of county chairman at-large.
15.2-602	County manager form of govt.: Board of supervisors; election; terms; chairman; vacancies.
15.2-603	County manager form of govt.: Referendum on election of supervisors by district or at-large.

Code of Virginia	
15.2-702	County manager plan of govt.: County board, membership, terms, chairman.
15.2-705	County manager plan of govt.: Election of members; vacancies.
15.2-802	Urban county executive form of govt.: Board of supervisors; election; terms; vacancies.
15.2-855 - 15.2-857	Urban county executive form of govt.: Election districts; redistricting.
15.2-1400	Governing bodies of localities.
15.2-1424	Governing bodies: Vacancies in office.
15.2-1522 - 15.2-1526	Qualifications; Eligibility, etc., of local elected officers.
15.2-1534 - 15.2-1535	Prohibition on dual office holding.
15.2-1600 - 15.2-1602	Local constitutional officers: qualifications; elections; sharing of officers by two or more localities.
15.2-1637	Sharing of certain constitutional officers.
15.2-1644 - 15.2-1655	Removal of county courthouse: petition; election; contest.
15.2-1702	Referendum required prior to establishment of county police force.
15.2-1703	Referendum to abolish county police force.
15.2-1807	Recreation, etc., system; petition and election for establishment.
15.2-2109	Powers of localities - public utilities; Voter authorization for certain acquisitions.
15.2-2401	Creation of service districts by court order in consolidated cities; petitions.
15.2-2600 - 15.2-2611	Local bond issues generally: referendum; election.
15.2-2638 - 15.2-2642	Bond issues by counties; referendum.
15.2-2800 - 15.2-2810	VA Indoor Clear Air Act: Smoking prohibited in polling rooms.
15.2-3100 - 15.2-3109	Settling boundaries between localities.
15.2-3200 - 15.2-3244	Boundary changes of towns and cities: annexation; contraction of corporate limits.
15.2-3225	County or district officers resident in annexed territory to remain in office; reelection.
15.2-3226	Redistricting and elections in city or town following annexation; transfer of voters in annexed territory.
15.2-3400	Voluntary settlements among local governments.

Code of Virginia	
15.2-3401	Referendum on contracting of debt by counties in voluntary settlement agreements.
15.2-3500 - 15.2-3519	Consolidation of like units of local government: petition, election; voters.
15.2-3520 - 15.2-3550	Consolidation of certain counties, cities and towns: petition; election.
15.2-3600 - 15.2-3605	Incorporation of towns by judicial proceeding: how first election ordered and held.
15.2-3700 - 15.2-3712	Annulment of town charter; election.
15.2-3800 - 15.2-3834	Transition of towns to cities: officers; transfer of voters.
15.2-4000 - 15.2-4005	Judicial determination of city status: officers.
15.2-4100 - 15.2-4120	Transition of city to town status; petition; officers.
15.2-5105 - 15.2-5106	Water and waste authorities: hearing; referendum; voters' petition requesting referendum.
18.2-8 - 18.2-17	Classification of criminal offenses; punishments.
18.2-10	Punishment for conviction of a felony.
18.2-11	Punishment for conviction of a misdemeanor.
22.1-28 - 22.1-57.5	School Boards; Selection, qualification and salaries of members.
Title 24.2 (all)	Elections. (Included in this volume)
30-19.9	Distribution of information on proposed constitutional amendments to voters.
30-19.10	Distribution of information on proposed questions to be submitted to voters.
30-100 - 30-129	(Effective October 1, 2001) General Assembly Conflict of Interests Act.
30-178 - 30-181	(Effective October 1, 2001) Virginia Freedom of Information Advisory Council.
32.1-263	Vital records: Filing death certificates; how social security number of deceased obtained.
32.1-271	Vital records: Disclosure of information in records; when unlawful; when lawful.
32.1-272	Vital records: Certified copies of vital records; other copies.
32.1-276	Vital records: Penalty imposed for violations.
37.1-134.6 - 37.1-147	Guardianship and conservatorship. (May include finding of "mentally incompetent" for purposes of voting rights)

Code of Virginia	
46.2-208.1	Department of Motor Vehicles: Electronic transfer of information in Department records for voter registration purposes.
47.1-19	Notary Fees: electoral board members, general registrars, assistant registrars or officers of election serving as notaries.
49-1 - 49-11	Oaths and Affirmations.
51.1-124.20	Board of Trustees of Virginia Retirement System: subject to removal from office only as set forth in 24.2-230 et seq.
51.1-1201	Volunteer Firefighters' and Rescue Squad Workers' Service Award Fund Board: subject to removal from office only as set forth in 24.2-230 et seq.
51.5-43	Discrimination against qualified persons with disabilities in exercising right to vote prohibited.
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58.1-339.6	Political candidate contribution tax credit.
58.1-346	Voluntary contribution of state tax refund to political party.
58.1-540	Levy of local income tax in certain counties; referendum.
58.1-609.1	Retail sales and use tax: exemption for voter lists furnished by the State Board of Elections pursuant to 24.2-404 - 24.2-407.
58.1-3164 - 58.1-3168	Removal of treasurer under 24.2-230 - 24.2-238.

This is a partial list of Virginia statutes and Constitutional provisions relating to elections, provided for reference purposes only. Please send additions and corrections to: policy@sbe.state.va.us.

Appendix B
Election Provisions of United States Code
and Code of Federal Regulations

Constitution of the United States of America	
Constitution of the United States of America	
Art. I, §§ 2, 3, 4, Art. II, § 1; Amendments 10, 12, 14, 15, 17, 19, 24, and 26	

United States Code	
2 USC 1 - 9	Election of Senators and Representatives
2 USC 431 - 456	Federal Election Campaigns
3 USC 1 - 21	Presidential Elections and Vacancies
5 USC 1501 - 1508	Political Activity of Certain State and Local Employees
18 USC 591 - 617	Crimes and Criminal Procedure: Elections and Political Activities
42 USC 1971 - 1973aa-6	Voting Rights, Generally
42 USC 1973ee - 1973ee-6	Poll Access for Elderly, Handicapped
42 USC 1973ff - 1973ff-6	Overseas, Military Absentee Voting
42 USC 1973gg - 1973gg-10	National Voter Registration Act
42 USC 1974 - 1974e	Federal Election Records

Code of Federal Regulations	
11 CFR 1.1 - 8.7	Federal Elections Commission
28 CFR 51.1 - 51.67	Procedures For The Administration Of Section 5 Of The Voting Rights Act Of 1965 Including: Appendix To Part 51 -- Jurisdictions Covered Under Section 4(B) Of The Voting Rights Act, As Amended.
28 CFR 55.1 - 55.24	Implementation Of The Provisions Of The Voting Rights Act Regarding Language Minority Groups Including: Appendix To Part 55 -- Jurisdictions Covered Under Secs. 4(F)(4) And 203(C) Of The Voting Rights Act Of 1965, As Amended.

User's Guide to the Index

This index contains treatment of the laws compiled in the *Virginia Election Laws, 2001 Edition*. Statutory provisions from the Virginia Code are referred to in the index by section number (e.g., §24.2-419).

The index is a combination of two approaches to indexing, topical and descriptive word. The topical approach follows the organization of the code, and the descriptive word approach uses nonlegal terms and popular names to describe legal terminology. LEXIS Publishing™ undertakes this dual approach to ensure main headings are derived from the statutory language of the Code, common legal jargon used by courts and lawyers, popular nonlegal terms, and customer contact suggestions. The result is a user-friendly index for both the lawyer and non-lawyer user.

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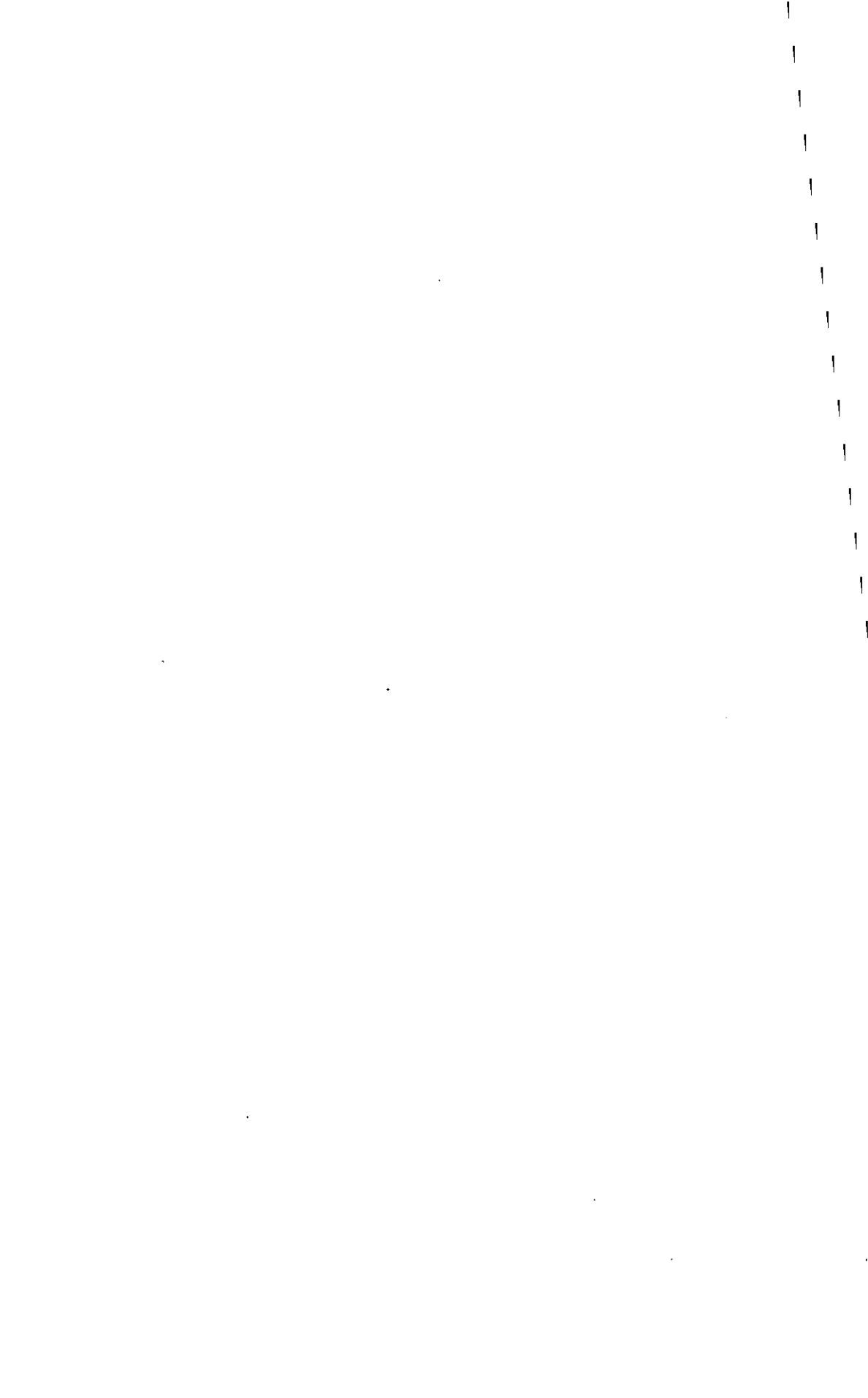
(1) *Begin your search with DEFINED TERMS.* DEFINED TERMS is a collection of entries for terms defined in the *Virginia Election Laws*. Starting a search in this heading exposes the index user to a diverse sampling of statutory terminology which could suggest to the user other headings to consult.

(2) *Cross references.* Pay close attention to and make full use of the index cross references. Cross references serve to keep indexes to a manageable size by reducing the amount of repetition of treatment under different headings. An index cross reference directs the index user to go to another part of the index to find treatment. For example, "SENATE OF THE UNITED STATES, See CONGRESS" directs the index user from the main heading SENATE OF THE UNITED STATES to the main heading CONGRESS.

(3) *Use descriptive words or phrases to aid in your search, including commonly used phrases or terms of art.* Examples would be ABSENTEE VOTING, CITY ELECTIONS, POLLING PLACES, and VOTER REGISTRATION.

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