

REVISION OF TITLE 24 OF THE CODE OF VIRGINIA

**REPORT OF THE
ELECTION LAWS STUDY COMMISSION
TO THE GOVERNOR
And
THE GENERAL ASSEMBLY OF VIRGINIA**



HD 14,1970

COMMONWEALTH OF VIRGINIA
Department of Purchases and Supply
Richmond
1969

ELECTION LAWS STUDY COMMISSION

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December 13, 1969

THE HONORABLE MILLS E. GODWIN, JR.
Governor of Virginia
State Capitol
Richmond, Virginia

DEAR GOVERNOR GODWIN:

It is my privilege to transmit herewith the Report of the Election Laws Study Commission. Pursuant to the resolution of the General Assembly, the Commission has engaged in a comprehensive study of the Virginia election laws.

The Commission has concluded that our election laws are in need of extensive revision and has proceeded to frame the changes it felt necessary and proper. Embodied in this Report will be found the recommendations of the Commission.

We wish to call attention to the fact that there are certain areas within the proposed statutes which will require continued revision in the coming years. Certain of the recommendations, the requirements of voting machines and a Central Registration System for example, will be phased in over a period of the next few years. As a result of these situations, the next few years will be a transitional period and necessitate additional statutory revision at the end of these periods. Similarly, the adoption of the proposed new Constitution by the voters will trigger the necessity for future amendment of these laws as is discussed in some detail in the commentary following.

It should also be mentioned that in regard to the Federal Voting Rights Act of 1965, it is the intention of the Commission that the Attorney General of the Commonwealth submit to the Attorney General of the United States the Act as soon as it is adopted. The burden is then placed on the Attorney General of the United States to raise any objections within sixty days. This procedure has been utilized by the Commonwealth in regard to past changes.

In the course of its deliberations, the Commission has sought and received the advice and counsel of many able citizens of the Commonwealth. We are indeed grateful for this assistance so willingly given.

Respectfully,

JAMES M. THOMSON
Chairman

Revision of Title 24 of the Code of Virginia

REPORT OF THE ELECTION LAWS STUDY COMMISSION

TO

THE GOVERNOR AND GENERAL ASSEMBLY OF VIRGINIA

Richmond, Virginia
December 13, 1969

To: HONORABLE MILLS E. GODWIN, JR., *Governor of Virginia*

and

THE GENERAL ASSEMBLY OF VIRGINIA

BACKGROUND

The 1968 General Assembly by House Joint Resolution No. 73 created the Election Laws Study Commission and designated that the Commission should include fifteen members, four to be appointed by the Speaker of the House of Delegates from membership of the Privileges and Elections Committee of the House, three to be appointed by the President of the Senate from the membership of the Privileges and Elections Committee of the Senate, and eight to be appointed by the Governor from the State at large. The designated House of Delegates members were: M. Caldwell Butler, Roanoke, an attorney; Walter B. Fidler, Sharps, an attorney; Lyman C. Harrell, Jr., Emporia, an attorney; and James M. Thomson, Alexandria, Chairman of the House Privileges and Elections Committee and an attorney. The designated Senate members were: Hunter B. Andrews, Hampton, an attorney; Lloyd C. Bird, Chesterfield, a business executive; and Joseph C. Hutcheson, Lawrenceville, an attorney. The members appointed by the Governor from the State at large were: Will D. Baugh, Lynchburg, Secretary of the Lynchburg Electoral Board and a book publisher; Mrs. John C. Doud, Alexandria, a housewife active in civic affairs; John Wingo Knowles, Richmond, Judge of the Circuit Courts of the City of Richmond and of Henrico County; Byron N. Puryear, Hampton, a contractor; Cecil D. Quillen, Gate City, an attorney; James M. Robertson, Norfolk, an attorney; Turner T. Smith, Manassas, Secretary of the Prince William County Electoral Board and an attorney; and H. Emory Widener, Jr., Bristol, now a Judge of the United States Court for the Western District of Virginia. The Governor designated James M. Thomson as Chairman of the Commission. The Commission elected Lloyd C. Bird to be Vice-Chairman of the Commission and employed William Griffith Thomas, Attorney, of Alexandria, to serve as counsel to the Commission.

The purpose of the Commission and its duties are found in H.J.R. No. 73, Acts of Assembly, Regular Session 1968, Volume 2, wherein it is stated:

“The Commission shall make a comprehensive study of the Virginia election laws, including but not limited to the qualifica-

tions of voters, registration procedure, the manner of selecting election officials, the functions and responsibilities of the State Board of Elections and the various local electoral boards, the purging of registration lists, the absentee ballot laws, and such other matters relating to same as the Commission shall see fit, and shall make recommendations as to what legislative changes, if any, should be made in the Constitution and general laws of the Commonwealth relating to elections." (at p. 1578)

The Commission held its organizational meeting in the month of July, 1968. Since that time the Commission and its subcommittees have held twenty-three full day meetings. Of these meetings, five were public hearings held in Abingdon, Lynchburg, Alexandria, Norfolk and Richmond.

The Commission has from the outset planned that its end product be a complete and thorough revision of all of Virginia's election laws. It is of some interest that the final draft of proposed Title 24.1 (The Election Laws) represents the seventh working draft of these proposals. The Commission also believes that it is of significance that the present statutes in Title 24 are contained in approximately 532 sections, while the proposed statutes in Title 24.1 contain 264 sections or slightly less than one-half the number found in the present law. Every effort has been made to eliminate inconsistent, repetitious and ambiguous provisions and to rearrange the organization of the present Title into a clear and logical sequence of Code sections according to subject.

GENERAL BROAD POLICY

The Commission made many changes in the election laws which were executions of broad policy decisions.

The Commission felt that the State Board of Elections should be strengthened and its duties and responsibilities specified in more detail. It was the feeling of the Commission that in several areas of possible problems where local attitudes might prevail in the considerations given by electoral boards, in order to insure uniformity, the State Board of Elections might be the best receptacle for certain powers. As an example of this policy decision, the Commission placed in the State Board of Elections the duty to prescribe the various forms necessary in the election process.

The Commission considered it equally important to strengthen and clarify the duties and responsibilities of the various electoral boards. It was apparent to the Commission that there are many areas in the electoral process wherein decisions should be made at the local level. It was felt that no single statewide requirement fixing the business hours of a general registrar's office could be set and that the only viable alternative in this type of case was to place clearly and completely the responsibility on the electoral board in the locality concerned.

Another example of the Commission's decision to strengthen the electoral board's position in the election process is the placing of the responsibility for determination of election results on the Electoral Board instead of on Commissioners. It should also be pointed out that as a general proposition, the duties presently placed upon the Clerk of Court have been transferred to the Secretary of the Electoral Board by the proposed statutes.

Very early in its deliberations the Commission felt that the entire registration process and system needed to be streamlined. An essential

part of this was the decision to require general registrars in each county throughout the Commonwealth as well as in each city. At the present time there remain approximately 40 counties with the precinct registrar system and no countywide general registrar. The duties and the power given to general registrars have been brought together into one all inclusive statute. Another vital part of the execution of this policy decision was the determination by the Commission to require the State Board of Elections to establish by October 1, 1973, a Central Registration Roster. This central registration roster will utilize the most modern methods available in data processing. The Commission felt that the centralization of the registration information was a vital part of its effort to eliminate any possibility of duplication of registration, registration in a place other than that of a person's residence, and the carrying of the name of a person as a registered voter who had either died or been convicted of a disqualifying crime.

As in the registration process, the Commission was of the opinion that the voting process also needed modernization. The basic decision in this regard was to provide for universal use of voting machines throughout the Commonwealth. The Commission's recommendation requires all cities and counties having an optional form of government to acquire voting machines prior to October 1, 1972, and all other counties to acquire voting machines prior to October 1, 1976. Those counties being required to acquire machines by October 1, 1976, will have to acquire machines for every voting precinct containing more than three hundred registered voters. It is the Commission's belief that a combination of the use of the computer printout sheets for verifying the names of registered voters and the use of voting machines will substantially speed up the voting process.

The Commission was very much aware of problems that have arisen in some areas of the Commonwealth concerning the use of absentee ballots. In considering this problem, the Commission sought to obtain a balanced solution to the problem. It is the Commission's feeling that its recommendation that all persons other than members of the armed forces and their spouses, students in school and their spouses, and those ill or physically disabled, who wish to vote absentee, be required to apply for their absentee ballots and vote in person in the office of the registrar or the secretary of the electoral board will eliminate many of the problems experienced.

The Commission was of the opinion that there was a definite need for new and stronger provisions concerning campaign contributions and expenditures. Instead of an attempt to limit the amount of money contributed or expended in any political campaign, a more realistic approach to the problem appeared to be to require full and complete disclosure of all contributions and all expenditures in the campaign prior to the election day. The Commission felt that this information would place the voter in a position to judge the candidate.

Finally, the Commission has made every attempt to draft this proposal so as to satisfy the requirements of both the existing Constitution and the proposed new Constitution. In many areas where a conflict did not exist, the approach adopted in the new Constitution concerning election laws was used. Where inconsistency made the execution of this policy impossible, a note has been added to the section, calling attention to the fact that at the Special Session in 1971, if the proposed new Constitution passes, amendment of the particular section will be necessary.

The Commission recommends that the enactment of these statutes be effective as of December 1, 1970. The enactment should not take effect in the normal course, or ninety days after sine die adjournment, since this will occur in the middle of an election process.

COMMENTARY BY CHAPTER

CHAPTER 1

A new section has been included in this chapter containing definitions of the various words and terms used throughout the Title. Under the present election laws, definitions are found scattered throughout the Title and in a number of cases inconsistent definitions of the same word or phrase can be found. It should be pointed out that there are substantive changes in the law contained within these new definitions. The Commission has included a definition of "residence" which conforms to that found in the proposed new Constitution, namely, that residence means domicile and a place of abode.

In the General Assembly legislative apportionment sections of this chapter, the Commission did give consideration to the creation of so-called "single member districts" and the "slot" or "numbered seat" districts, however, due to the press of other business and the shortness of time, the Commission did not make any specific recommendation in this area.

CHAPTER 2

The Commission's proposal allows a political party to make recommendations to the Governor concerning appointments to the State Board of Elections. This change further requires that the Governor appoint one of those persons recommended by the political party unless he states in writing to such party that none of those persons whose names have been submitted are in his judgment competent. The Commission felt that this change was necessary in order to insure that appointments to the State Board of Elections be equitably representative of the political parties.

The Commission recommends that § 2.1-124 of the Code of Virginia, as amended, be again amended. The Commission wishes to give the Attorney General power to institute and prosecute violations of the elections laws and § 2.1-124 should be amended to include "Violations of the Virginia Election Laws" within the exceptions contained in that section.

Located within this Chapter 2 will be found the sections establishing the Central Registration Roster System. These sections require that the State Board of Elections, on or before October 1, 1973, establish, operate and maintain a central record keeping system containing the names, etc., of all registered voters within the Commonwealth. The State Board of Elections has been given broad powers which were felt necessary to accomplish the establishment of this system. The Commission feels that through the utilization of these broad powers, the State Board of Elections can establish this central record keeping system and at the same time operate our election process under existing law.

The Commission has been able to determine that at least six cities (Chesapeake, Danville, Portsmouth, Roanoke, Salem and Virginia Beach) and at least four counties (Arlington, Chesterfield, Fairfax and Roanoke) are presently using computers and data processing in

their registration record keeping systems. These sections have been drafted in conjunction with Mr. Gordon W. Mills, Director of the Division of Automated Data Processing for the Commonwealth of Virginia. Mr. Mills made a preliminary study of the cost of the creation of the central registration roster system and the maintenance thereof at the request of the Commission. A subcommittee of the full Commission did make a trip to South Carolina, where a system similar to the one proposed is in full operation. The subcommittee spent considerable time reviewing the system and made a detailed written report concerning the South Carolina system to the full Commission. It was the Commission's feeling that only through the centralization of record keeping could the list of registered voters in the Commonwealth be maintained accurately, currently and economically.

CHAPTER 3

The Commission has proposed that the various electoral boards be appointed by a majority of the resident judges of the courts of record from lists submitted to the judges by the political parties in question. Provisions have been made in the statute for cases where there are no resident judges or where there is only one resident judge. The Commission did give consideration to a proposal that the electoral board be appointed by the local governing body and rejected this proposal.

In this Chapter, we will find the first of a number of sections which make it abundantly clear that the records concerning the election process shall be open to the public. In order to avoid any question, details concerning the availability of such records have been placed in the statutes.

This chapter, also for the first time, contains provisions concerning compensation of those involved in the election process. The Commission has determined that the amount of compensation should be left up to the locality involved. The Commission has placed a base on this compensation by establishing that members of the electoral board shall receive Twenty-five Dollars per day.

In this Chapter will be found initial provisions concerning the "Officers of Election." The Commission has chosen, consistent with the proposed new Constitution, to use this Title for the persons carrying out the election process at the polling places in lieu of the present "Judges and Clerks". This change will appear consistently throughout the Title.

CHAPTER 4

The proposals concerning the size of precincts allow a great deal more flexibility than the present statutory provisions. As proposed by the Commission each city precinct shall contain not less than five hundred nor more than five thousand qualified voters and each county precinct shall contain not less than one hundred nor more than five thousand qualified voters. The Commission was of the opinion that with the requirement of voting machines and the use of data processing for registered voter lists, the election process could be sufficiently speeded up so that a precinct could accommodate substantially more persons than we have been able to accommodate in the past. The Commission consulted with a number of localities that have used voting machines in precincts with numbers of qualified voters similar to those in the proposal and found this to be satisfactory.

CHAPTER 5

The Commission's recommendations require the appointment of a general registrar in every county and city in the Commonwealth. The approach to compensation mentioned in Chapter 3 is also carried forward in regard to the general registrar. The provisions allow the local governing body to pay the general registrar additional compensation, but sets as a base Twenty Dollars per day for each day's service or a portion thereof and the governing body is required to furnish the general registrar with an office and equipment.

The proposal allows the electoral board to control the number of assistants to the general registrar and their duties. Once the electoral board determines the need of an assistant registrar, the appointment of that assistant is made by the general registrar.

In addition to the one registration office which must be provided by the local governing body, the electoral board has been given the clear authority to establish such additional offices as it may deem necessary. It was the opinion of the Commission that the questions of number and location of additional registration offices should be left in the hands of the electoral board in the locality. This problem, of course, varies from community to community, and the determination can only be made in the locality by persons familiar with the local situation. The local governing body, of course, still controls the purse strings, which in fact control the establishment of additional registration offices.

In regard to the number of registration days which must be held, in addition to the regular registration days which occur thirty days before an election, the registrar must maintain his office for the registration of qualified voters not less than one day each month. The Commission felt, after substantial discussion, that the determination of how many additional days should be available for registration could only be made on the local level by the electoral board.

With respect to purging the names of voters from the registration lists, the Commission chose to follow the approach adopted in the proposed new Constitution, or to purge those persons who have not voted within four calendar years. The Commission decided that this should begin as of December 31, 1974. The Commission felt that this delay in the institution of the automatic purge provision was necessary in order to give the people of the Commonwealth adequate warning of its institution.

CHAPTER 6

In making provision for the appointment of individuals to fill vacancies, the Commission has followed the recommendations contained in the proposed new Constitution. Thus, under the proposed statutes the term of an appointment to fill a vacancy will extend until the next general election and not for the balance of the term as presently provided.

Under present law there are no less than five varying code sections concerning the terms of clerks of courts of record in cities throughout the Commonwealth. The Commission was of the opinion that this wide variance in terms, dates of election, and beginning dates for terms should be eliminated. As a result of this decision, the Commission has recommended that all clerks of courts of record in cities, holding office as of the effective date of this Act, have their terms extended until the first day of January, 1980, and that the next election for such

clerks be at the general election in November of 1979. The terms of these clerks would then be for a uniform eight-year period. For further information on this, the section (24.1-87) and its comments are available.

The Commission has placed the town election process under the county general registrar and electoral board. The Commission was of the opinion that since we would no longer have precinct registrars that to have any separate electoral machinery for a town was not only unnecessary, but largely unworkable.

CHAPTER 7

Article 1

The Commission has recommended that the present limitation of campaigning to beyond forty feet of the ballot box be expanded and strengthened so that campaigning may not take place within 100 feet of any door of the polling place. The Commission, in considering this section, considered a number of other states that have a similar limitation, some up to three hundred feet from the entrance to the polling places.

The Commission has required that the electoral board appoint officers of election at its regular meeting during the first seven (7) days of the month of February in each year and that the names of such officers of election be available for inspection and posted in the general registrar's office in the locality.

The Commission has recommended a uniform system concerning the listing of candidates on the ballots. This system would provide that in general elections the State Board of Elections or the local electoral boards should determine by lot the order of the political parties on the ballot. Once the order of the political parties is determined, the names of all candidates of that political party shall be grouped under the party designation. Where there is more than one candidate representing a political party running for an office, the candidates' names shall appear alphabetically below the name of their political party. The provisions concerning the order of names on the ballot for special elections and primary elections are spelled out in the articles dealing with these types of election.

The Commission has recommended that the electoral boards take over the duties of the commissioners of election, which primarily involve the verification of the total vote in the election. The Commission did feel, however, that the clerk of the court should be maintained in the electoral process to the extent of being the official repository for election records.

CHAPTER 7

Article 2

The provisions concerning the placing on the ballot of the names of electors for President and Vice President selected by groups other than political parties meeting the definition contained in § 24.1-1, have been substantially strengthened. It was the feeling of the Commission that a group should not be entitled to call itself a "political party" and utilize the name of a political party unless it was, in fact, such a party. Under present law, one person can obtain 1,000 signa-

tures and place the names of electors on the presidential ballot under the name of a political party selected by him. The provisions recommended by the Commission either require the group to meet the normal definition of political party or to file a petition containing the number of names equivalent to 1% of the qualified voters in the Commonwealth and to have a state central committee and duly designated chairman in existence for at least six months prior to the filing of the petition. Any group not meeting these qualifications may have their electors listed, but cannot call itself a political party.

CHAPTER 7

Article 3

In this Article, the Commission has provided that the order of names appearing on the ballot in a special election shall be determined in the same way as provided for primaries. That is to say, that the names of candidates in a special election shall appear on the ballot in order of time of filing their candidacy. In the case of candidates filing simultaneously the order shall be determined by lot by the electoral board or the State Board of Elections.

CHAPTER 7

Article 4

The Commission has recommended certain changes in regard to the filing of candidates and party nominees other than a nominee determined by a primary. An independent candidate must file a petition containing names of qualified voters equivalent to 1% of the number of qualified voters within the election district in which he offers. The independent candidate's filing must be by the time of the closing of the polls on the primary day.

In the case of a party nominee not determined by a primary, the party must also file this candidate's name by the time of closing the polls on the primary day. The Commission has recommended that a provision be included which would allow a party nominee chosen other than by primary to be selected no earlier than thirty days before the primary day. The Commission was of the opinion that in order to shorten the election process it would be beneficial to have the convention nomination by a party occur reasonably near the primary day utilized by a party.

CHAPTER 7

Article 5

The Commission has recommended that the primary dates be changed. For general elections occurring in November the Commission recommends that the Tuesday after the second Monday in September be the primary day. For general elections occurring as proposed by the Commission in May, the primary date would be sixty days prior thereto or the first Tuesday in March. It was the feeling of the Commission that by bringing the primary day for November general elections into September, the election process within the Commonwealth would be accelerated and placed within a reasonable time span. The Commission, of course, recognizes that this movement in the primary day

will have no effect upon those candidates who wish to announce their candidacy and begin to run for election from an early date.

The requirement that the petition of candidacy of a person wishing to run for election contain a number of qualified voters equivalent to 1% of the qualified voters in election district, has, of course, been carried forward to those petitions filed for candidates in primary elections.

It should also be noted in connection with this Article that the commission has recommended the abolition of the so-called "runoff primary". It was the feeling of the Commission following the elections in 1969 that if a candidate could be elected to an office by a plurality, then he should be able to be nominated in a primary election by a plurality.

CHAPTER 7

Article 6

The major change proposed in this Article is the mandatory requirement of voting machines. The Commission has recommended that all cities and counties having an optional form of government acquire voting machines by October 1, 1972, and that all other counties within the Commonwealth acquire voting machines by October 1, 1976. The Commission recognizes that many of those counties required to meet this provision by 1976 have a number of small precincts in which the use of voting machines is not practicable. The Commission has recommended that these counties be required to have voting machines in all precincts of three hundred or more qualified voters. A prohibition has been included to prevent these counties from splitting precincts in order to bring them under the three hundred qualified voter limitation.

The Commission has recommended the deletion of Chapter 13.1 of Title 24 relative to the electronic tabulation of votes—the so-called "Punch Card" system of voting machines. The Commission spent substantial time considering this matter. A subcommittee was dispatched to Atlanta, Georgia, during the fall election of 1968 to view the operation of this system. The Commission had the benefit of a substantial report from that subcommittee. In addition, the Commission or a subcommittee thereof has heard from advocates of this system on no less than three different occasions. As a result of these deliberations, the Commission is of the opinion that the problems of and dangers inherent in the use of this type of vote tabulation system are so extensive that the system should not be utilized within the Commonwealth.

CHAPTER 7

Article 7

The Commission devoted substantial time to the consideration of the problems in certain areas of the State concerning absentee votes. One of the five public hearings held by the Commission was devoted almost entirely to this problem. The Commission determined that the basic provisions of our law concerning the ability of persons to vote by absentee ballot should be preserved.

The changes proposed by the Commission will, in its opinion, strengthen the absentee ballot provisions substantially. The Commission has recommended that all armed forces personnel and their

spouses, all students in school and their spouses, all persons ill or physically disabled, who cannot attend the polls on election day, shall continue to have substantially the same privileges concerning absentee ballot voting as are presently allowed. The Commission, however, has made substantial changes concerning those persons who are to be out of town or business, occupation or vacation on election day. Any person falling in these last categories may vote by absentee ballot, but must apply for such absentee ballot and vote in person before the general registrar or the secretary of the electoral board in their official offices. All applications shall be made not less than five nor more than thirty days before the election. The persons in this last category must apply and vote in person at least five days before the election in which their vote is to be counted.

It was the considered opinion of the Commission that the solution to the major problem in the area of absentee ballots did not lie in elimination of the right to absentee ballot voting, but would result from strengthening and active enforcement of the laws concerning such ballots.

The Commission's proposal will place the absentee ballot application and procedure for members of the armed forces of the United States in the appropriate general registrar instead of the State Board of Elections. In light of the elimination of the precinct registrar system, this change appeared to be in order.

CHAPTER 8

The Commission's recommendations include the requirement that any contest of an election for any office may be initiated only by written complaint of one or more of the unsuccessful candidates in the election. It was the Commission's feeling that the present provision of law allowing a contest to be brought about by petition of a certain number of qualified voters was too broad and not necessary. The Commission feels that the proper party in interest in a contest is the unsuccessful candidate in the election.

The Commission has determined that the prohibition contained in the present law against an appeal in the case of a contest should be eliminated. The result of the deletion of this section will be to leave the question of appeal up to general law and the Rules of Court.

The Commission's recommendations concerning recounts take the present law and broaden it to cover all offices and elections. This means that the provisions enacted by the General Assembly in 1962 concerning recounts in the cases of elections in which the difference is not more than 1% of those voting will apply uniformly to all offices and elections throughout the Commonwealth and not be limited to certain specified offices.

CHAPTER 9

This chapter, entitled "Fair Election Practices", is entirely new. As stated in the comments concerning policy, the Commission was of the opinion that the problems of campaign expenditures and contributions were best solved by full disclosure instead of by detailed limitations.

This proposal requires that every candidate appoint a treasurer for his campaign. It allows the candidate himself to serve as his own treasurer or allows a particular treasurer to serve as treasurer for more

than one candidate. The treasurer is responsible for maintaining full, complete and accurate records of all receipts and all disbursements in regard to the campaign. Campaign funds are required to be deposited in a bank located within the Commonwealth.

There is specific provision covering political party committees and any other persons who expend funds in relation to any person's candidacy.

Due to a potential conflict with the federal campaign contribution and expenditure legislation, this chapter will not apply to any elections to the Congress of the United States.

The provisions of this proposal will require disclosure of all contributions, listing the names of the contributors and the amounts of the contribution and all expenses paid or contracted for. These disclosures will have to be made seven days before an election and thirty days after an election. The Commission felt that contributions and expenditures in excess of Fifty-one Dollars should be broken down in detail, however, those contributions or expenditures in the amount of Fifty-one Dollars or less could be lumped and disclosed as one total amount, so long as the total number of contributors related to the total amount or the total number of expenditures related to the total amount were given.

In an effort to offer a check on the disclosures independent of the candidates, the Commission has included a requirement that all enterprises taking campaign advertisement of any type whatsoever, disclose to the State Board of Elections the name or names of the person or persons contracting for such advertisement, their addresses and the amount or dollar costs of such advertisement. The Commission believes that this procedure will offer a double check to insure that full, complete and accurate disclosures are made, not only by the candidates for election, but by the political party committees and any other persons involved in campaigns.

CHAPTER 10

The Commission has attempted to include under one chapter all of the election law offenses and the penalties related thereto. All of these offenses have been broken down into categories of either felonies or misdemeanors. At the present time the present election laws provide for a variety of penalties, depending upon the offenses. The Commission felt it best to fix the penalties for misdemeanors as set out in the general law or § 18.1-9 of the Code. In the cases in which the Commission felt a felony penalty should be specified, the Commission has provided that a misdemeanor penalty may be imposed in the discretion of the jury or the court trying the case.

The Commission has included in the offenses a new conspiracy statute similar to the federal statute under which certain federal cases concerning absentee ballot frauds were recently prosecuted.

Respectfully submitted,

James M. Thomson, *Chairman*

Lloyd C. Bird, *Vice-Chairman*

Hunter B. Andrews

Will D. Baugh

M. Caldwell Butler
 Mrs. John C. Doud
 Walter B. Fidler
 J. C. Hutcheson
 John Wingo Knowles
 B. N. Puryear
 Cecil D. Quillen
 James M. Robertson
 Turner T. Smith
 H. Emory Widener, Jr.

The Honorable Lyman C. Harrell, Jr., participated with distinction throughout all of the deliberations of the Commission. Only his untimely death on January 3, 1970, after the completion of the Commission's work, prevented his affixing his signature to the Report.

TITLE 24.1

NEW CHAPTER ORDER

NEW	OLD	
<i>Chapter No.</i>	<i>Chapter</i>	
1	1	Definitions; Apportionment of Representatives
2 Art. 1	3	State Board of Elections
Art. 2		Central Registration Roster
3	4	Electoral Boards
4	5	Election Districts
5	2, 2.1 & 6	Qualification of Voters and Registration
6	10	State and Local Officers
7 Art. 1	11	The Election
7 Art. 2	11.1	Presidential Elections
7 Art. 3	9	Special Elections
7 Art. 4	8	Candidates for Office
7 Art. 5	14	Primary Elections
7 Art. 6	12	Voting Machines
7 Art. 7	13 & 13.1	Absentee Voting
8	16	Contested Elections & Recounts
9		Fair Elections Practices Act
10	17	Election Offenses, Penalty

NOTE: Chapters 7, 12.1 and 15 deleted in entirety.

NEW	OLD (SOURCE)	DELETE
<i>Chapter 1</i>	<i>(Old Chapter 1)</i>	
24.1-1	24-22, 44, 136, 137, 346	24-13.1
-2	-1	
-3	-2	

NEW	OLD (SOURCE)	DELETE
<i>Chapter 1</i>	<i>(Old Chapter 1)—(Cont'd)</i>	
-4	-3	
-5	-4	
-6	-5	
-7	-6	
-8	-7	
-9	-8, -9	
-10	-10	
-11	-11	
-12	-12	
-13	-13	
-14	-14	
-15	-15	
-16	-16	
-17	(RESERVED)	
<i>Chapter 2</i>	<i>(Old Chapter 3)</i>	
24.1-18	-24, 345.10	24-28.1
-19	-25, 345.11	
-20	-26	
-21	-27	
-22	-28	
-23		
-24		
-25		
-26		
-27		
-28		
	CENTRAL REGISTRATION SYSTEM	
<i>Chapter 3</i>	<i>(Old Chapter 4)</i>	
24.1-29	24-29, 32, 33, 42	24-39
-30	-34, 43	
-31	-37, 38, 40, 41	
-32	-30, 199	
-33	-31, 198	
-34	-35, 36	
-35	-255, 255.1	
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-312	-222	-345.9	Delete
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-314	-224	-345.11	-19
-315	-225	-345.12	Delete
-316	Delete	-345.13	Delete
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-318.2	Delete	-346	-1
-318.3	Delete	-347	-170
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-358	Delete	CHAPTER 15	
-359	-179	-409	Delete
-360	Delete	-410	Delete
-361	-171	-411	Delete
-362	-194	-412	Delete
-363	-172	-413	Delete
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-364.1	-180	-415	Delete
-365	-172	-416	Delete
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-367	-182	-418	Delete
-368	Delete		
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-378	Delete	-427	-237
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-380	Delete	-429	-237
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-395	Delete	-442	Delete
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-395.2	Delete	-444	Delete
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A BILL to revise, rearrange, amend and recodify the general laws of Virginia relating to elections; to that end to repeal Title 24 of the Code of Virginia, which title includes Chapters 1 to 17 and §§ 24-1 to 24-456, inclusive, of the Code of Virginia, as amended, and relates to elections; to amend the Code of Virginia by adding thereto, in lieu of the foregoing title, chapters and sections of the Code repealed by this act, a new title numbered 24.1, which new title includes new chapters numbered 1 to 10, inclusive, and new sections numbered 24.1-1 to 24.1-281, inclusive, relating to elections; and to prescribe when such revision and recodification shall become effective.

Be it enacted by the General Assembly of Virginia:

1. That Title 24 of the Code of Virginia, which title includes chapters 1 to 17 and §§ 24-1 to 24-456, inclusive, of the Code of Virginia, as amended, is repealed.
2. That the Code of Virginia be amended by adding thereto, in lieu of the title, chapters and sections of the Code herein repealed, a new title numbered 24.1, new chapters numbered 1 to 10, inclusive, and new sections numbered 24.1-1 to 24.1-281, inclusive, which new title, chapters and sections are as follows:

Title 24.1

ELECTIONS

CHAPTER 1

DEFINITIONS; APPORTIONMENT OF REPRESENTATIVES

§ 24.1-1. **Definitions.**—Definitions as used in this Title, unless a different meaning is required by the context:

(1) “Books”, as used in regard to the registration of qualified voters and the maintenance of information concerning qualified voters, shall include all registration records, lists, or files whether maintained in a book, on cards, magnetic tape or any other legally permitted record keeping or maintaining device or system;

(2) “Candidate” shall include a person who, by reason of receiving the nomination for election to an office of a political party, is referred to as a “nominee;”

(3) The word “Commonwealth” shall mean the Commonwealth of Virginia;

(4) “Election District” may be a county, city, town, magisterial district of a county, ward of a city, or precinct or combination of any of these, as may be designated by proper authority or by law;

(a) “General Election” means any election held in the Commonwealth on the Tuesday after the first Monday in November, and on the first Tuesday in May, pursuant to Chapter 7, Article 1 of this Title;

(b) “Primary” or “Primary Election” means an election held for the purpose of nominating candidates as nominees of political parties for election to offices, and for the purpose of electing persons as members of the committees of political parties;

(c) "Special Election" means any election held pursuant to law other than a general or primary election, provided that a special election may also be held on the day of a general or primary election;

(6) "Officers of Election" shall include all those persons appointed by an electoral board to maintain and operate a polling place at any election and all those persons previously referred to as "judges and clerks of election";

(7) "Party" or "Political Party" shall mean an organization or affiliation of citizens of the Commonwealth which, at the last preceding statewide general election, polled at least ten percent of the total vote cast for the office filled in that election by the voters of the Commonwealth at large. Such organization or affiliation of citizens shall also have a State Central Committee and a duly elected chairman which have continually been in existence and holding office for the six months preceding the filing of a nominee;

(8) "Polling Place" means that place provided for each election district or precinct at which the qualified voters having a voting residence in such election district or precinct may vote;

(9) "Precinct" means a district designated by proper authority within which all qualified voters having a voting residence therein may vote at the same polling place;

(10) The words "Qualified Voter" shall mean a person who has qualified to vote pursuant to the Constitution and statutes of the Commonwealth;

(11) "Residence," for all purposes of qualification to vote, requires both domicile and a place of abode.

Source: New Section—see 24-22, 44, 136, 137, 346.

Comment: New section sets up definitions. Many of the definitions are drawn from sections in present law while others are newly drafted. It is believed that many of these definitions solve many problems in the law and allow for brevity in drafting.

§ 24.1-2. Election of United States Senators.—United States Senators, in the Congress of the United States for the Commonwealth of Virginia, shall be elected by the qualified voters thereof, at the general election held in November next preceding the expiration of the term of office of such United States Senators. Such senators shall be chosen by the qualified voters in this Commonwealth. At such election, the candidate receiving the highest number of votes shall be declared elected.

Source: 24-1

Comment: Section changes "State" to "Commonwealth" and "people" and "electors" to "qualified voters." These changes have been made consistently throughout the new draft.

§ 24.1-3. How Vacancies in Senate Are Filled.—When any vacancy shall occur in the representation of the Commonwealth of Virginia in the United States Senate, the Governor shall issue a writ of election to fill such vacancy. Such election shall be held at the next succeeding November election. The senator, so elected, shall hold such office for the unexpired term of the senator whom such person is elected to succeed, but the Governor may make a temporary appointment to fill such vacancy until the qualified voters fill same by election, as hereinbefore required.

Source: 24-2

Comment: No substantive change.

§ 24.1-4. **Congressional Districts.**—The cities of Newport News, Hampton, Virginia Beach and Williamsburg and the counties of Accomack, James City, Gloucester, Mathews, Middlesex, Northampton, and York shall constitute the first Congressional district.

The cities of Norfolk and Portsmouth shall constitute the second Congressional district.

The city of Richmond and the counties of Chesterfield and Henrico shall constitute the third Congressional district.

The cities of Chesapeake, Colonial Heights, Emporia, Franklin, Petersburg, Suffolk and Hopewell and the counties of Amelia, Appomattox, Lunenburg, Buckingham, Cumberland, Dinwiddie, Greensville, Isle of Wight, Nansemond, Nottoway, Powhatan, Prince Edward, Prince George, Southampton, Surry and Sussex shall constitute the fourth Congressional district.

The cities of Danville, Martinsville, South Boston, and Galax and the counties of Campbell, Pittsylvania, Henry, Franklin, Patrick, Carroll, Grayson, Halifax, Charlotte, Brunswick and Mecklenburg shall constitute the fifth Congressional district.

The cities of Roanoke, Lynchburg, Radford, Clifton Forge, Covington, Salem and Bedford and the counties of Amherst, Nelson, Bedford, Roanoke, Montgomery, Floyd, Craig, Botetourt and Alleghany shall constitute the sixth Congressional district.

The cities of Charlottesville, Harrisonburg, Lexington, Waynesboro, Winchester, Staunton and Buena Vista, and the counties of Albemarle, Culpeper, Greene, Fluvanna, Orange, Clarke, Frederick, Rappahannock, Page, Rockingham, Shenandoah, Warren, Augusta, Bath, Highland, Madison, and Rockbridge shall constitute the seventh Congressional district.

The city of Fredericksburg and the counties of Essex, Charles City, King and Queen, New Kent, Caroline, Fauquier, Goochland, Westmoreland, Lancaster, Richmond, Northumberland, Hanover, King George, Loudoun, Louisa, Prince William, Spotsylvania, King William and Stafford and that part of Fairfax County comprising Mount Vernon, Lee, and Centreville magisterial districts and those parts of Dranesville and Providence magisterial districts situated north and west of the Interstate highways numbered sixty-six and four hundred ninety-five shall constitute the eighth Congressional district.

The cities of Bristol and Norton and the counties of Lee, Scott, Wise, Dickenson, Buchanan, Russell, Washington, Smyth, Pulaski, Giles, Bland, Wythe and Tazewell shall constitute the ninth Congressional district.

The cities of Alexandria, Fairfax and Falls Church, the county of Arlington and that part of Fairfax County comprising Falls Church and Mason magisterial districts and those parts of Dranesville and Providence magisterial districts situated south and east of the Interstate highways numbered sixty-six and four hundred ninety-five shall constitute the tenth Congressional district.

Source: 24,3

Comment: No change.

§ 24.1-5. **Each District to Elect One Representative.**—The qualified voters of each of such Congressional districts shall choose one representa-

tive of this Commonwealth in the House of Representatives of the Congress of the United States.

Source: 24-4

Comment: No substantive change.

§ 24.1-6. How and When Representatives Elected.—Members of the House of Representatives of the Congress of the United States shall be chosen by the qualified voters of the respective Congressional districts, at the general election in November, of the year one thousand nine hundred seventy, and every second year thereafter, for the term of two years.

Source: 24-5

Comment: Only change is to add “of the Congress” after “Representatives,” and update reference to date of election.

§ 24.1-7. Governor to Issue Writs to Fill Vacancies in House of Representatives.—When any vacancy shall occur in the representation of the Commonwealth of Virginia in the House of Representatives of the Congress of the United States, the Governor shall issue a writ of election to fill such vacancy.

Source: 24-6

Comment: No substantive change.

§ 24.1-8. Electors for President and Vice President.—There shall be chosen by the qualified voters of the Commonwealth, at the election to be held on the Tuesday after the first Monday in November, nineteen hundred and seventy-two, and at elections to be held on the Tuesday after the first Monday in November in each fourth year thereafter, so many electors for President and Vice President of the United States as this Commonwealth shall be entitled to at the time of such election under the Constitution and laws of the United States. Each voter voting in such election shall vote for the number of electors which shall be equal to the whole number of senators and representatives to which the Commonwealth may at that time be entitled in the Congress of the United States.

Source: 24-7

Comment: Large portion of second sentence concerning how many electors there are deleted and wording substituted which appears to be simpler and equally precise. Language added to last sentence which conforms to present law making voting for all electors mandatory. (See 24-290.5)

§ 24.1-9. When and Where Electors Convene; How Vacancies Supplied; Election of Electors and Meeting When Congress Prescribes a Different Day.—Unless a different day be prescribed by authority of the United States, the electors shall convene at the Capitol Building in the Capital City of the Commonwealth on the first Monday after the second Wednesday in December, after their election, at the hour of twelve o'clock Noon of that day. If there shall be any vacancy in the office of electors, occasioned by death, refusal to act, neglect to attend, or other cause, the electors present shall immediately proceed to fill by ballot, and by a plurality of votes, such vacancy. When the electors shall appear, or the vacancies shall have been filled as above provided, they shall proceed to perform the duties required of such electors by the Constitution and laws of the United States.

If Congress shall determine on a different time for choosing electors, or appoint a different day for their meeting to give their votes, under the requirements of the Constitution of the United States, then the election shall be held and the meeting of the electors take place at such times, respectively, as shall be prescribed by authority of the United States.

Source: 24-8 & 9

Comment: No change except to combine two sections.

§ 24.1-10. Pay of Electors.—Each elector shall be allowed the sum of Twenty-five 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.

Source: 24-10

Comment: Only change is to increase pay provision from \$4 to \$25.

§ 24.1-11. When Members of the House of Delegates Elected; Term of Office.—The members of the House of Delegates shall be elected on the Tuesday succeeding the first Monday in November, nineteen hundred and seventy-one, and every two years thereafter for a term of two years to begin on the second Wednesday in January succeeding their election.

Source: 24-11

Comment: No substantive change.

§ 24.1-12. Apportionment of members of House of Delegates.—Members of the House of Delegates shall be distributed and apportioned, and each county, city and combination is entitled to representation in the House of Delegates by a delegate, or by delegates, as follows:

First.—Chesapeake, two.

Second.—Accomack and Northampton, one.

Third.—Albemarle and Greene, one.

Fourth.—Charlottesville, one.

Fifth.—Alexandria, two.

Sixth.—Allegheny, Botetourt, Covington and Clifton Forge, one.

Seventh.—Amelia, Lunenburg and Nottoway, one.

Eighth.—Amherst and Lynchburg, one.

Ninth.—Arlington, four.

Tenth.—Augusta, Highland, Staunton and Waynesboro, two.

Eleventh.—Bedford County and the City of Bedford, one.

Twelfth.—Bland, Craig, Giles, Pulaski and Wythe, two.

Thirteenth.—Danville and Pittsylvania, one.

Fourteenth.—Brunswick and Dinwiddie, one.

Fifteenth.—Buchanan, one.

Sixteenth.—Russell and Dickenson, one.

Seventeenth.—Roanoke County, and the cities of Roanoke and Salem, one.

Eighteenth.—Campbell, one.
Nineteenth.—Caroline, King George, Essex and King and Queen, one.
Twentieth.—Fairfax County, and the cities of Alexandria, Fairfax and Falls Church, one.
Twenty-first.—James City, York and Williamsburg, one.
Twenty-second.—Charlotte, Cumberland and Prince Edward, one.
Twenty-third.—Chesterfield and Colonial Heights, two.
Twenty-fourth.—Clarke, Frederick and Winchester, one.
Twenty-fifth.—Danville, one.
Twenty-sixth.—Hampton, two.
Twenty-seventh.—Fairfax County, and cities of Fairfax and Falls Church, six.
Thirty-eighth.—Isle of Wight, Southampton, and city of Franklin, one.
Twenty-ninth.—Fluvanna, Goochland, Louisa and Powhatan, one.
Thirtieth.—Franklin County and Floyd, one.
Thirty-first.—Gloucester, Mathews, New Kent, Charles City and Middlesex, one.
Thirty-second.—Carroll, Grayson and Galax, one.
Thirty-third.—Greensville, Surry, Sussex and Emporia, one.
Thirty-fourth.—Halifax and South Boston, one.
Thirty-fifth.—Hanover and King William, one.
Thirty-sixth.—Henrico, and city of Richmond, eight.
Thirty-seventh.—Henry, Patrick and Martinsville, two.
Thirty-eighth.—Isle of Wight, Southampton, and city of Franklin, one.
Thirty-ninth.—Northumberland, Westmoreland, Lancaster and Richmond County, one.
Fortieth.—Newport News, three.
Forty-first.—Lee, Wise, and city of Norton, two.
Forty-second.—Loudoun and Prince William, two.
Forty-third.—Lynchburg, one.
Forty-fourth.—Madison, Culpeper and Orange, one.
Forty-fifth.—Mecklenburg, one.
Forty-sixth.—Montgomery and Radford, one.
Forty-seventh.—Nansemond and Suffolk, one.
Forty-eighth.—Nelson, Appomattox and Buckingham, one.
Forty-ninth.—Norfolk City, seven.
Fiftieth.—Page, Rockingham, Shenandoah and Harrisonburg, two.
Fifty-first.—Petersburg, one.

Fifty-second.—Pittsylvania, one.
Fifty-third.—Portsmouth, three.
Fifty-fourth.—Prince George and Hopewell, one.
Fifty-fifth.—Virginia Beach, two.
Fifty-sixth.—Roanoke County, and the city of Salem, one.
Fifty-seventh.—Roanoke City, two.
Fifty-eighth.—Rockbridge, Bath and Buena Vista and Lexington, one.
Fifty-ninth.—Smyth, one.
Sixtieth.—Spotsylvania, Stafford and Fredericksburg, one.
Sixty-first.—Tazewell, one.
Sixty-second.—Washington, Scott and Bristol, two.

And the districts hereby created are hereby numbered one (1) to sixty-two (62) inclusive.

Source: 24-12

Comment: No change.

§ 24.1-13. When Senators Elected.—Members of the Senate of Virginia to represent each senatorial district of the Commonwealth shall be elected on the Tuesday after the first Monday in November, nineteen hundred and seventy-one, and every four years thereafter, for a term of four years, to begin on the second Wednesday in January succeeding their election.

Source: 24-13

Comment: No substantive change.

§ 24.1-14. Commonwealth Senatorial Districts.—The Commonwealth is hereby divided into thirty-three districts entitled to senators as follows:

First.—The counties of Accomack, Northampton, Mathews, Gloucester and York, one.

Second.—The city of Norfolk, three.

Third.—The cities of Chesapeake, Portsmouth and Virginia Beach, three.

Fourth.—The counties of Halifax, Charlotte, Prince Edward, Lunenburg and Nottoway and the city of South Boston, one.

Fifth.—The counties of Isle of Wight, Nansemond, Southampton, and the cities of Suffolk and Franklin, one.

Sixth.—The counties of Greensville, James City, Prince George, Surry and Sussex, and the cities of Hopewell, Emporia and Williamsburg, one.

Seventh.—The counties of Brunswick, Dinwiddie and Mecklenburg, and the city of Petersburg, one.

Eighth.—The counties of Arlington and Fairfax, and the city of Fairfax and Falls Church, one.

Ninth.—The county of Arlington, one.

- Tenth.—The counties of Appomattox, Buckingham, Amherst, Nelson and Campbell, one.
- Eleventh.—The county of Bedford and the cities of Bedford and Lynchburg, one.
- Twelfth.—The counties of Henry, Patrick and Pittsylvania, and the cities of Danville and Martinsville, two.
- Thirteenth.—The counties of Carroll, Floyd, Franklin and Montgomery, and the cities of Galax and Radford, one.
- Fourteenth.—The counties of Washington, Lee and Scott and the city of Bristol, one.
- Fifteenth.—The counties of Dickenson, Russell and Wise and the city of Norton, one.
- Sixteenth.—The counties of Buchanan, Smyth and Tazewell, one.
- Seventeenth.—The counties of Bland, Giles, Pulaski, Craig, Grayson
- Eighteenth.—The counties of Alleghany, Bath, Botetourt, and Roanoke, and the cities of Clifton Forge, Covington, and Salem, one.
- Nineteenth.—The counties of Augusta, Rockbridge and Highland, and the cities of Buena Vista, Lexington, Staunton and Waynesboro, one.
- Twentieth.—The counties of Page, Rappahannock, Rockingham and Warren, and the city of Harrisonburg, one.
- Twenty-first.—The counties of Clarke, Frederick, Shenandoah and Loudoun and the city of Winchester, one.
- Twenty-second.—The counties of Albemarle, Fluvanna, Greene, Cumberland, Powhatan and Madison, and the city of Charlottesville, one.
- Twenty-third.—The counties of Goochland, Louisa, Orange, Spotsylvania, Culpeper, Caroline, King George and the city of Fredericksburg, one.
- Twenty-fourth.—The county of Fairfax and the cities of Fairfax and Falls Church, two.
- Twenty-fifth.—The counties of Prince William, Stafford and Fauquier, one.
- Twenty-sixth.—The counties of Hanover, King William, Essex, King and Queen, Middlesex, Westmoreland, Northumberland, Richmond and Lancaster, one.
- Twenty-seventh.—The city of Newport News, one.
- Twenty-eighth.—The city of Hampton, one.
- Twenty-ninth.—The counties of Charles City, Chesterfield, Amelia and New Kent and the city of Colonial Heights, one.
- Thirtieth.—The city of Richmond, two.
- Thirty-first.—The county of Henrico, one.
- Thirty-second.—The city of Roanoke, one.
- Thirty-third.—The city of Alexandria, one.

Source: 24-14

Comment: No substantive change.

§ 24.1-15. How Cities of Second Class Considered in Apportionment.—For purposes of the apportionment of members of the Senate of Virginia and members of the House of Delegates, cities of the second class, not mentioned by name, whether now existing or hereafter created, are deemed to be parts of the county or counties, respectively, wherein the area occupied by such city was formerly located, and are so deemed to be included in the enumerations of counties heretofore.

Source: 24-15

Comment: No substantive change.

§ 24.1-16. How Vacancies in the General Assembly Filled.—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 shall die, resign or be legally incapacitated to hold such office prior to its meeting, a writ of election to fill such vacancy shall be issued by the Governor, and when such vacancy happens during the session of the General Assembly of which the person so dying or resigning or whose office is otherwise vacated is a member, the writ shall be issued by the Speaker of the House of Delegates, or by the President of the Senate, as the case may be.

Such writ shall be directed to the secretary of the electoral board of the county or the city for which the election is to be held, or to the secretaries of the electoral boards of the respective counties and cities composing the election district, or districts, for the election of senators or delegates, when the election is for such districts, but whenever any district is changed after the election of a delegate or senator, and the delegate or senator shall die, resign, or his office be otherwise vacated, the election to fill the vacancy shall be held in the district as constituted when the delegate or senator was elected.

Source: 24-16

Comment: Second paragraph changed to require writ be directed to the respective secretary of the electoral board instead of the Sheriff or Sergeant.

§ 24.1-17 (RESERVED)

CHAPTER 2

STATE BOARD OF ELECTIONS

Article 1.

In General

§ 24.1-18. Appointment, Terms, Salaries, Seal and Office.—There shall be a permanent board, which shall be known as the State Board of Elections to 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. A majority of the Board of Elections shall be

from the political party which cast the highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election. The political party entitled to an appointment may make and file recommendations with the Governor for the appointment. Such recommendations shall contain the names of at least three qualified voters of the Commonwealth. The Governor shall appoint one of those persons recommended, unless he has reason to believe that none of the persons recommended would be a competent member of such board. In such cases the Governor shall so state in writing to the recommending political party, with the reasons therefor, and such party may file additional recommendations with the Governor within ten days. The regular terms of office of such members shall be four years, commencing February first after their appointment. Vacancies shall be filled for the unexpired terms. No member of the Board, except the secretary, shall be eligible for more than two successive terms. The Governor shall designate one member of the Board as the secretary, who shall receive such salary as is fixed by law. The remaining members shall receive a per diem of twenty-five dollars for each day spent in the work of the Board. All members shall receive such traveling and other expenses incurred in the performance of their duties as members of the General Assembly. The Board shall adopt a seal for its use, and by-laws for its own government and procedure. The Board shall be provided with necessary office space and equipment and may employ such clerical, other assistants and personnel as it may require to carry out the duties imposed by this Title.

Source: 24-24, 345.10

Comment: The Board has been removed from the office of the Secretary of the Commonwealth's Office. The requirement that the office be in the City of Richmond was deleted. Two additional substantive changes are made: The first requires that basis of appointments be on votes cast in last gubernatorial election; the second allows parties to recommend persons for appointment.

§ 24.1-19. Powers and Duties in General.—The State Board of Elections shall so supervise and coordinate the work of the county and city electoral boards and of the registrars as to obtain uniformity in their practices and proceedings and legality and purity in all elections. It shall make such rules and regulations not inconsistent with law as will be conducive to the proper functioning of such electoral boards and registrars, and may institute proceedings for the removal of any member of an electoral board or other election official and any registrar who fails to discharge the duties of his office in accordance with law.

Source: 24-25, 345.11

Comment: This section contains no substantive changes. The last paragraph of the old § 24-25 has been dropped as containing obsolete references to the Secretary of the Commonwealth.

§ 24.1-20. Purging Registration Books.—The Board shall require that the registration books or records of any county, city or town shall be purged and shall direct such purge to be had in any county, city or town in which a purge of registration has not been had within the period required by law or where a purge has been incomplete or insufficient. The purging of the registrations shall be in the time and manner provided by §§ 24.1-46 and 59 through 62 inclusive.

Source: 24-26

Comment: The reference to purges within “a reasonable period” was dropped and in lieu thereof inserted “the period required by law.” Therefore the number of years within which a purge must be held is handled in the Registration Chapter. Reference to “time” of purging was inserted in last sentence referring to the automatic four-year purge in 24.1-59.

§ 24.1-21. Requesting assistance for Commonwealth’s attorney.—The Board, in any instance in which it is of opinion that the public interest will be served thereby, 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, and the Attorney General, or the other attorney designated by the Governor, shall have full authority to do all things necessary or appropriate to enforce the election laws or prosecute violations thereof.

Source: 24-27

Comment: No change. The power of the Attorney General to institute or prosecute criminal cases in circuit or corporation courts is set forth in § 2.1-124. This section provides, except in certain instances, the Attorney General shall not get so involved unless requested by the Governor. The Commission wishes to give the Attorney General power to institute and prosecute violations of the Election Laws and § 2.1-124 should be amended to include “Violations of the Virginia Election Laws” within the exceptions and so recommends.

§ 24.1-22. Board to Prepare and Distribute Records for Registration.—The Board of Elections shall prepare appropriate forms or records for the registration, transfer, and identification of voters which shall be used throughout the Commonwealth. The forms for registration and transfer shall require sufficient information to allow for maintenance of the required registration system and records.

The form of the application to register shall require the applicant to provide under oath the following information: Full name, including the maiden name of a woman, if married; age; date and place of birth; marital status; occupation; social security number, if any or other identification number; whether the applicant is presently a United States citizen; address and place of abode and length of residence in the Commonwealth, the county or city, and the precinct; place and time of any previous registrations to vote; and whether the applicant has ever been adjudicated to be mentally incompetent or convicted of a disqualifying crime, and if so, under what circumstances the applicant’s right to vote has been restored.

Source: 24-28

Comment: Section puts responsibility of forms in hands of State Board requires their use throughout the Commonwealth. Second paragraph is drawn from proposed new Constitution and requires sufficient information for central registration system.

Article 2.

Central Registration Roster.

§ 24.1-23. Central Registration Roster.—The State Board of Elections shall provide for the establishment, operation and maintenance of a central

record keeping system on or before October 1, 1973, for all voters registered in the Commonwealth.

In order to establish, operate and maintain such system, it shall be the duty of the State Board of Elections to:

(1) Maintain a complete central registration roster of all qualified voters in the Commonwealth by county or city, as the case may be, and by precincts within such county or city.

(2) Delete from the central registration roster the name of any voter (a) who is deceased, (b) who is no longer qualified to vote in the election district where registered due to removal of his residence, (c) who has been convicted of a disqualifying crime, or (d) who is otherwise no longer qualified to vote as may be provided by law.

(3) Enter names of qualified voters on the central registration roster as they are reported by the county and city electoral boards and general registrars.

(4) At least ten days prior to each election, provide to each county and city electoral board a list of all registered voters in the county and city, together with three copies of an alphabetical list of all registered voters in each precinct of such county, city or town, which precinct lists shall be used as the official lists of qualified voters and constitute the precinct poll books.

(5) Retain for four years from date of receipt all information furnished to the Board relating to the inclusion or deletion of names from the master roster.

(6) Acquire by purchase, or lease, or contract for the use of such equipment as is required to execute the duties of the Board properly.

(7) Utilize any source of information which may assist in carrying out the purposes of this section.

(8) Furnish, at a reasonable price, precinct lists to duly qualified candidates, political party committees or officials thereof, and to no one else.

Source: Draft

Comment: This section places on the State Board of Elections the duty to establish and operate a central registration system for the entire Commonwealth by October 1, 1973, or the next gubernatorial election.

§ 24.1-24. Electoral Boards to Furnish Copy of Application to State Board of Election.—On or before the fifteenth day of each month and, when an election is to be held, within five days after the precinct lists or poll books are closed prior to such election, each electoral board shall furnish to the State Board of Elections one copy of each properly completed application to register to vote, and such other information concerning each registered voter as may be requested by the Board.

Source: Draft

Comment: This section requires each electoral board to furnish the State Board with a copy of each application to register. It will be through this process that new voters will be placed on the Central Registration roster.

§ 24.1-25. Bureau of Vital Statistics to Furnish Information to State Board of Elections.—The Bureau of Vital Statistics shall furnish the State Board of Elections a monthly report of all persons of the age of twenty-one years or more who shall have died in the Commonwealth subsequent to its previous monthly report. Such reports shall contain the name of the deceased, county, city or town of residence, his social security or other identification number, and the date and place of his birth and of his death. The initial report shall be made upon request of the State Board of Elections, but in no event later than January 1, 1973.

Source: Draft

Comment: This section requires vital statistics to furnish information concerning deaths to State Board to facilitate keeping roster current.

§ 24.1-26. Division of Criminal Records to Furnish Information to State Board of Elections.—The Division of Central Criminal Records Exchange shall furnish monthly to the State Board of Elections a complete list of all persons convicted, during the preceding month, of those offenses set forth in the Constitution upon conviction of which a person is disqualified to vote. Such list shall contain the name of the person convicted, his county, city, or town of residence, his social security or other identification number, the date and place of his birth and the date of his conviction. The initial report shall be made upon request of the State Board of Elections but in no event later than January 1, 1973.

Source: Draft

Comment: This section requires the Criminal Records Exchange to furnish information concerning criminal convictions to State Board to facilitate keeping roster current.

§ 24.1-27. Powers of State Board to Establish Central Registration System; Other Departments of the Commonwealth.—In order that the requirements of the establishment of a Central Registration Roster by the State Board of Elections can be accomplished in a proper and orderly manner in addition to the duties imposed upon the State Board of Elections by § 24.1-23 the Board is authorized:

(1) To prescribe and require the use of a standard form or forms for applications to register to vote throughout the Commonwealth.

(2) To permit counties and cities to transfer their respective lists of qualified voters from any present system of registration record keeping to the Central Registration Roster system prior to October 1, 1973, but only upon determination by the Board that the electoral board can properly make such transfer.

(3) To issue, with the advice of the attorney general, formal rulings reconciling matters of apparent inconsistency between former registration and election requirements and the requirements governing the establishment of the Central Registration Roster under this article. Such ruling shall be binding upon the electoral boards of the various localities.

(4) To promulgate regulations establishing the duties of the electoral boards necessary to the establishment and operation of the Central Registration Roster system, such regulations to be promulgated pursuant to the provisions of the General Administrative Agencies Act (§§ 9-6.1 et seq.).

All departments of the Commonwealth shall cooperate with the state Board of Elections in procuring and exchanging statistical identification

information for the purpose of establishing the Central Registration Roster System.

Source: Draft

Comment: This section gives very broad powers to State Board in order to facilitate creation of Central Registration System. These powers should be sufficient to handle problems caused by the dual operation of the present registration system and the computer system as well as the necessary transition. The last paragraph requires other state departments to assist in the gathering of information necessary to the establishing of the system which is primarily social security numbers.

§ 24.1-28. Existing Books and Records Not Be Destroyed; Controlling.

—The existing voter registration and voting books and records shall be preserved for not less than five years after the establishment of the Central Registration Roster and in the event of a dispute concerning the question of whether a person is registered to vote, determination shall be made from the existing local voter registration and voting records.

Upon the establishment of the Central Registration Roster, in the event of a conflict as to whether a person is registered to vote, the electoral board's or registrar's records, including the application to register, shall be controlling.

Source: Draft

Comment: This section makes the local records controlling in the event of a controversy concerning a person's qualification to vote. Accordingly, the preservation of all old books and records is required for at least five years after the systems establishment.

CHAPTER 3

ELECTORAL BOARDS

§ 24.1-29. Appointment and Oath of Members of Boards; Vacancies.

—There shall be in each county and city an electoral board, composed of three members, who shall be appointed by the resident judges of the courts of record of the county or city. If there be more than one resident judge and a majority of such judges cannot agree, the senior judge shall make such appointment with the approval of the other judge or judges. If there be no resident judges, then the judge of the court of record shall make the appointment. Any vacancy occurring in the boards shall be filled by the same authority for the unexpired term. 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. A majority of the electoral board shall be from the political party which cast the highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election. The political party entitled to the appointment may make and file recommendations with the judge or judges for the appointment. Such recommendations shall contain the names of at least three qualified voters of the county or city. The judge or judges shall appoint one of those persons recommended, unless he has reason to believe that none of the persons recommended would be a competent member of such board. In such cases the judge or judges shall

so state in writing to the recommending political party, with the reasons therefor, and such party may file additional recommendations with the judge or judges within ten days.

The members of the Board shall be appointed for a term of three years. No member of the Board shall be eligible for more than two successive terms. The Board shall elect one of its members chairman and another secretary. The members of the Board shall qualify by taking and subscribing the oaths required to be taken by county and city officers before entering upon their term of office. Whenever any secretary of the electoral board is elected he shall at once notify the Board of Elections of his election and inform it of his post office address and telephone number. The secretary shall also inform the Board of Elections of the names, post office addresses and telephone numbers of the other members of the electoral board.

Source: 24-29, 32, 33 & 42

Comment: The reference at the beginning of the section to the appointment of the boards by resident judges has been added. The requirement of a list of political party recommendations for appointments has been added. The sections have been combined.

§ 24.1-30. Meetings of Boards; Quorum and Record of Proceedings; Seal; Records Open to Inspection.—The electoral board of each city and county shall convene in regular session at such time during the first week in the month of February of each year as the board may prescribe, and at any other time upon the call of any member of the board, and at any special meeting the board shall have the same powers as at a regular meeting. At any session two members shall constitute a quorum. Notice of all meetings shall be given to all members of the board either by the secretary of the board or the member calling the meeting at least one day prior to said meeting. Notice may be waived only by agreement of all of the members of the board.

The secretary of each electoral board shall keep, in a book to be provided for that purpose, an accurate account of all the proceedings of the board, including all appointments and removals of registrars and officers of election. The secretary shall keep in his custody the duly adopted seal of the board which shall be used for sealing the ballots as provided by § 24.1-117.

All books, papers, and records of the board shall be open to the inspection of any qualified voter at the office of the board, or if the board does not have an office at the office of the secretary of the board. Such books, papers and records shall be available for inspection between the hours of 9 o'clock A.M. and 5 o'clock P.M. on weekdays and at such other times and days as may be fixed by the secretary of the board. Except, however, that during the period thirty days prior to an election such books, papers and records shall be available only to one duly designated representative of each nominee or candidate.

In each county or city where the office of the general registrar is not regularly open between the hours of 9 o'clock A.M. and 5 o'clock P.M. on weekdays, the electoral board shall require that the general registrar keep open his office, in addition to other required times, at least one day each week during the period thirty days prior to an election. The electoral board shall post notice thirty days before an election of the time and days the general registrar's office will be open as required at ten public places

in the jurisdiction or publish such notice once in a newspaper of general circulation.

24-34, 43

Comment: The last two sentences of the first paragraph require one day's notice be given for all meetings. The last paragraph provides for books and records to be open for inspection. The last portion of the last paragraph requires the Electoral Board to see that part-time registrars keep their offices open at least once a week during the thirty days before an election. This will assure a person who wishes to vote absentee in person of a place to vote.

§ 24.1-31. Pay and Expenses of Members of Board Generally.—The members of the electoral board, including the secretary, shall receive from the county or city for each day of actual service the sum of twenty-five dollars; provided, however, the governing body of any county or city may determine and pay such additional compensation as they deem necessary to the secretary of the electoral board and the other members of the board.

The secretary of the board shall in addition to the compensation set forth herein or provided by the local governing body be allowed his expenses not to exceed three hundred dollars in any one year. The counties and cities shall furnish the necessary postage and stationery, including a bound book for the minutes of its proceedings, for the use of the board.

Each member of the electoral board shall receive from the county or city, respectively, the same mileage as is now paid to members of the General Assembly.

Each member of the electoral board, including the secretary, before he is entitled to receive any amount hereunder shall make out a statement under oath of his claim and the statements, when so made out and found correct, shall be paid by the governing body of the county or city for which the board was appointed and for which the service was rendered or expense incurred.

Source: 24-37, 38, 40, 41

Comment: Above sections combined, last portion of first paragraph provides locality may increase compensation and give consideration to time spent by secretary and pay as frequently as monthly.

§ 24.1-32. Appointment of Officers of Election and Registrars by Board.—Each electoral board shall appoint the officers of election for its city or county, including the towns therein. Before any officer of election shall enter upon the performance of the duties imposed upon him by law he shall take and subscribe the oath prescribed in the Constitution. Each electoral board shall also appoint a general registrar. In appointing the officers of election, representation 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.

Source: 24-30, 199

Comment: This section raises the use of the names of election officers. Throughout Title references are only made to "officers of election". Provision for oath included here.

§ 24.1-33. Persons Holding Other Offices Not to Serve as Member of Board, Registrar or Officer.—No person nor the deputy of any person holding any office or post of profit or emolument under the United States government, or who is in the employment of such government, or holding any elective office of profit or trust in the Commonwealth or in any county, city or town thereof, shall be appointed a member of the electoral board, registrar, or officers of election.

Source: 24-31, 198

Comment: The language of this section will be governed by what is done with § 31 and constitutional changes. It is the intent of the Commission that a member of an electoral board shall not, merely because of such membership, be prohibited from doing business with any government, State or local.

Note: The provision of the proposed new Constitution will require replacement of this section with the new language in 1971. (Article II, Section 8)

§ 24.1-34. Board May Remove Registrars, Officers of Election and Fill Vacancy of Registrar.—The board may remove from office any registrar or officer of election upon notice, who fails to discharge the duties of his office according to law.

The electoral boards shall have the power, and it shall be their duty to declare vacant, and to proceed to fill the office of any registrar in their respective cities, counties, and towns who fails to qualify and deliver to the secretary of the board the official oath of the appointee in the usual form within thirty days after he has been notified of his appointment which notification shall be promptly given by the secretary.

Source: 24-35, 36

Comment: Combined sections. Requires oath be delivered to Secretary of Electoral Board instead of Clerk.

§ 24.1-35. Information to be Submitted to State Board of Election.—It shall be the duty of the secretary of the electoral board, on the first day of January and July in each year or as often as required by the State Board of Elections, to transmit to the State Board of Elections the following: The number of new registered voters for the period; the number of voters transferred to or from the jurisdiction during the period; the number of voters stricken or purged from the books during the period; a list of the number of election districts in the county or city and the number of voters for each district; and such other information as requested by the State Board of Elections. The secretary of the electoral board may delegate this duty to the general registrar.

Source: 24-255, 255.1

Comment: Redrafted and broadened as to information to be sent to State Board.

CHAPTER 4

ELECTION DISTRICTS

§ 24.1-36. Councils of Cities to Establish Precincts.—The governing body of a city shall establish for each ward, or for the city at large if there be no wards, as many election districts or precincts as it may deem neces-

sary and a polling place in each district or precinct. Such districts or precincts shall be established so that there shall be not less than five hundred nor more than five thousand qualified voters per district or precinct as of the time such districts or precincts are established. The Council shall prescribe and cause to be published the boundaries of the districts or precincts. It may alter the boundaries of any such election district or precinct, and re-arrange, increase, or diminish the number thereof, and change the polling places or establish others therein, not to exceed, however, one polling place for each election district or precinct. No such change in any election district or precinct shall be made within sixty days next preceding any general election, nor until notice has been mailed to all the registered voters within the districts or precincts to be changed and notice has been published in a newspaper having general circulation in such election district or precinct once a week for two successive weeks. Such notice may be given within the sixty-day period specified herein.

In the event that any precinct contain a number of qualified voters in excess of five thousand, the city shall within six months proceed to alter or re-arrange the precinct boundaries in order that such precinct shall no longer contain in excess of five thousand qualified voters. The mere failure to comply with the requirement of this paragraph shall not be cause to attack any election.

Source: 24-45, 51

Comment: The reference to number of voting places simplified and minimum and maximum number of precinct voters specified at 500 to 5,000 for city. Last portion of the first paragraph referring to changing boundaries or voting place within 30 days of general election changed to 60 days and notice provisions added. The last paragraph is new and requires the city to rearrange precincts when they exceed five thousand voters.

§ 24.1-37. Change in Election District or Precinct on Petition for County, City or Town.—Upon the petition of twenty qualified voters of an election district or precinct of a county, or upon petition of a majority of the qualified voters of an election district or precinct of a city or town, or upon petition of the governing body of any county or town, the court of record wherein deeds are recorded of the county or city shall upon proper evidence have jurisdiction to: (1) Change the name of any election district or precinct therein; (2) alter the boundaries of any election district or precinct therein; (3) rearrange, increase or diminish the number thereof; or (4) abandon or abolish any election district, precinct or polling place therein and change polling places or establish others therein. Such petition shall state the facts upon which it is based and the relief requested. No court costs shall be taxed in connection with said petition and no filing fee shall be required.

Such districts or precincts shall be established so that there shall be not less than one hundred nor more than five thousand qualified voters per district or precinct as of the time such districts or precincts are established. In the event that any precinct contain a number of qualified voters in excess of five thousand, the governing body of the county shall within six months proceed to petition the court pursuant to this section to alter or re-arrange the precinct boundaries in order that such precinct shall no longer contain in excess of five thousand qualified voters; however, the mere failure to comply with this requirement shall not be cause to attack any election.

The election districts or precinct in any county shall not be divided or created so that resulting election districts or precincts have less than three hundred registered voters in order to avoid the requirements of the use of voting machines set forth in § 24.1-203.

Source: 24-46

Comment: Section as written leaves county as is upon petition of 20 voters or county governing body; added is a city and town where petition to court is by a majority of the qualified voters or the governing body of the county or town. Limitation on creation of precincts of less than 100 voters and more than 5,000 voters included and a requirement that governing body of the county petition to correct this situation has been added. Limitation of splitting to avoid voting machine requirements spelled out.

§ 24.1-38. Abandonment When Less Than Thirty Voters in District or Precinct.—If in any such district, precinct, or polling place there be not more than thirty qualified voters as shown by the books of the registrar, the court of record wherein deeds are recorded may abolish the district, precinct or polling place upon petition of the governing body of the county or town or upon petition signed by a majority of the qualified voters in the district or precinct. The court shall proceed pursuant to § 24.1-37 to alter and re-arrange precincts in order that the qualified voters of the abolished precinct be placed in a new precinct.

Source: 24-47 and 48

Comment: The last sentence is new and requires the court to proceed pursuant to § 24.1-37 and re-arrange the precincts so as to accommodate the voters from the abolished precincts. Otherwise, no substantive changes have been made in the combining of the sections.

§ 24.1-39. Changes Not Effective Within 60 Days of Election; Notice Required; Order.—No change as provided for in § 24.1-37 shall be made within 60 days next preceding any primary, general or special election nor until notice has been mailed to all the registered voters within the districts or precincts to be changed and notice has been published in a newspaper having general circulation in such election district or precinct once a week for two successive weeks. Such notice may be within the sixty-day period specified herein.

When an order is entered by the court under this chapter, the court shall, in its order designate: (1) the new election districts or precincts by proper and well-defined boundaries; (2) the names of the election districts or precincts; (3) the location of the polling places therein; (4) the newspaper having general circulation within the election districts or precincts in which publication of the court's order shall be made once a week for two successive weeks.

Source: 24-49, 50 & 51

Comment: Sections combined and rewritten to clarify.

§ 24.1-40. (RESERVED)

CHAPTER 5

QUALIFICATION OF VOTERS AND REGISTRATION

§ 24.1-41. Persons Entitled to Vote at all Elections.—Every citizen of the United States twenty-one years of age, who has been a resident of the Commonwealth one year, of the county, city or town six months, and of the precinct in which he offers to vote thirty days next preceding the general election in which he offers to vote, has been duly registered unless exempted therefrom, and is otherwise qualified, under the Constitution and laws of this Commonwealth shall be entitled to vote for all officers elective by the qualified voters. Removal from one precinct to another in the same county, city or town, shall not deprive any person of his right to vote in the precinct from which he has moved, until the expiration of thirty days from such removal.

The qualifications of voters at any special election shall be such as are hereinbefore prescribed for voters at the next ensuing general elections.

Source: 24-17, 22, 23

Comment: Sections combined. No substantive changes.

Note: The residency requirements of the proposed new Constitution will require amendment of this section in 1971. (Article II, Section 1)

§ 24.1-42. Persons Disqualified From Registering and Voting.—The following persons shall be excluded from registering and voting: Idiots, insane persons and paupers; persons who, prior to the adoption of the Constitution, were disqualified from voting by conviction of crime, either within or without the State, and whose disabilities shall not have been removed; persons convicted after the adoption of the Constitution, either within or without this State, of treason, or of any felony, bribery, petit larceny, obtaining money or property under false pretenses, embezzlement, forgery or perjury; persons who, while citizens of this State since the adoption of the Constitution, have fought a duel with a deadly weapon, or sent or accepted a challenge to fight such duel, either within or without this State, or knowingly conveyed a challenge, or aided or assisted in any way in the fighting of such duel.

The Governor may remove such disability pursuant to Section 73 of the Constitution.

Source: 24-18, 18.2

Comment: No substantive change.

Note: The passage of the proposed new Constitution (Article II, Section 1) will require amendment of this section in 1971.

§ 24.1-43. Appointment of Registrars, Qualification, Oath, Provision for Office, Compensation, Prohibition to Election to Office.—Each electoral board in the Commonwealth at its regular meeting in the first week in the month of February, nineteen hundred and seventy-one, and every four years thereafter, shall appoint a general registrar, who shall be a qualified voter of the jurisdiction for which he is appointed. Such general registrar shall not hold any other office, by election or appointment, during his term; provided, however, with the consent of the electoral board, other duties not inconsistent with law may be undertaken by the general registrar, provided such other duties do not conflict with his duties as

general registrar. General registrars shall not serve as officers of election. The electoral board shall fill any vacancy that may occur in the office of general registrar.

Each general registrar shall, before entering upon the duties of his office, take and subscribe, before some officer authorized by law to administer oaths, the oath of office prescribed in the Constitution of this Commonwealth. He shall subscribe such oath and file it in the Clerk's office of the court of record wherein deeds are recorded, and such registrar shall file a copy of such oath with the secretary of his electoral board.

Each local governing body shall furnish the general registrar with suitable public office space, adequately furnished, located within the county or city, and with postage, stationery and office supplies as may be necessary.

General registrars shall receive as compensation for their services twenty dollars for each day of service or portion thereof. The local governing body may pay such additional compensation as it deems necessary.

No general registrar shall be eligible to offer for or hold an office to be filled by election solely by the qualified voters of his jurisdiction at any election during his term.

Source: 24-52, 52.1, 55, 61, 65, 66, 118.1

Comment: The above sections have been combined into one inclusive section on appointment of general registrar and rewritten entirely. In regard to the compensation provision, it is the commission's intention that there be no partial day's service so that service for a portion of a day will entitle the registrar to a full day's pay and provision for this has been inserted.

§ 24.1-44. Term of Office and Disqualification of Registrar.—The term of office of the general registrar shall begin on the first day of March, 1971, and every four years thereafter and shall continue until a successor is duly appointed and qualified. The appointment or election of a general registrar to any other office shall vacate the office of general registrar.

Source: 24-53

Comment: Section conformed to apply to general registrar. Spells out the term to be served and when the term begins.

§ 24.1-45. Assistants of General Registrar.—The electoral board shall determine the number, set the term, and establish the duties of such assistant registrars as may be required. The general registrar shall appoint such assistants who shall have the same limitations, qualifications and fulfill the same requirements as the general registrar except that an assistant registrar may be an officer of election. Their compensation shall be fixed and paid by the local governing body.

Source: 24-58

Comment: Written to be the all inclusive section on allowing the electoral board to establish and the registrar to appoint assistant registrars. Provides assistant must have qualifications and limitations of general registrar and paid by same authority except an assistant may be an officer of election. It would be possible under this section for the board to establish one assistant for each precinct in a county to create a system such as presently exists in Fairfax County.

§ 24.1-46. Duties of General Registrar.—In addition to the other duties provided by law, it shall be the duty of the general registrar to:

(1) Maintain the public office provided by the local governing body and to establish and maintain such additional public offices for the registration of voters as are designated by the electoral board.

(2) Provide the appropriate forms for application to register and to obtain the information necessary to complete the application pursuant to the provisions of the Constitution.

(3) Maintain, only in the principal office of the general registrar, separate books containing the names of registered voters in alphabetical order for each election district within his jurisdiction and make them available for all elections in such districts.

(4) Maintain in his office suitable books containing lists in alphabetical order of persons registered and carry out such other duties as prescribed by the electoral board.

(5) Certify the list of election districts, the number of voters and information as required by the State Board of Elections.

(6) Preserve as a part of the official records the written applications and certificates of transfer of all persons who are registered or who are denied registration by him, for at least two years after such applications and certificates of transfer are filed.

(7) If a person is refused registration, notify such person in writing of such refusal and the reason forthwith.

(8) Upon being informed and determining that a voter is registered in a precinct, election district, county or city, in which he no longer resides, notify such voter of the voter's duty to obtain a transfer to the election district of his residence as required by law. If such voter fail to comply with the law and such voter be within the same jurisdiction, the general registrar shall make such transfer; however, if such voter be without the jurisdiction, the general registrar shall remove such voter by purge.

(9) In the event that election districts are rearranged or a new district created, cause the names of those registered voters residing in the rearranged or new districts to be placed on the books and lists for the proper election district and notify such voters by mail of the changes.

(10) In the event that through annexation, merger or similar means an area in which registered voters reside becomes a part of another election district, county or city, furnish to the appropriate general registrar lists of registered voters so affected. Such registered voter shall be placed on the registration books of the new election district, county or city, so notified by mail, and stricken from the registration books of the general registrar so transferring them.

(11) In the event of registration of a qualified voter, who was previously registered in another place, notify the appropriate authority of the last place of previous registration of such new registration. Such notice shall be upon a form prescribed or approved by the State Board of Elections.

(12) Strike from the list of voters the names of all persons known to him to be disqualified to vote, as provided in the Constitution, unless such disability has been removed as provided by law. The various records concerning such names shall be retained for a period of two years.

(13) Purge the registration books pursuant to §§ 24.1-59 through 62 and maintain accurate books of registered voters.

(14) Whenever the registration books in any election district are so mutilated, blotted, defaced, or otherwise in such condition as to render it difficult, troublesome or unsafe to use them longer, the electoral board shall then order, or may at any time order, that the books shall be copied, cause fair copies to be made of the old registration books, and they shall take the place of the old books. The general registrar shall preserve the old books.

(15) Upon request of the local governing body, to inform in writing those local governmental agencies or departments duly designated the names and addresses of all new registered voters, all those removed from the registration lists and all those changes of address occurring within the period requested.

Source: 24-60, 59, 60.1, 71, 72, 73, 78, 85, 90, 93, 94, 95, 101, 111 & 174

Comment: The above sections are combined with a view of placing all of the duties of the registrar in one comprehensive section. In way of certain explanation: Item number (8) is intended to require a registrar, once he has knowledge of a voter's change of residence, to notify the voter he should transfer and if he fails to either transfer him, if he is within the county or city, or purge him, if he is without the county or city; item number (11) is not intended to cover transfers wherein this notice process is unnecessary, but is intended to require notice to be sent to places of previous registration without as well as within the Commonwealth; item number (12) applies to disqualification to vote by death, criminal conviction, and mental incompetency; item (15) is intended to allow a governing body to make pertinent information specifically about residency available from the registrar's records to other county or city departments.

§ 24.1-47. Who to be Registered for all Elections.—Each registrar shall register every citizen of the United States, of his election district, who shall apply in person to be registered at the time and in the manner required by law, and who, at the time of the next general election, shall have the qualifications of age and residence required by the Constitution of Virginia.

Source: 24-67

Comment: Section rearranged and made more general to allow latitude in registration systems.

§ 24.1-48. Application for Registration.—Each applicant to register shall provide the information necessary to complete the application to register under oath, and, unless physically disabled, shall sign the application. The application to register shall be only upon a form or forms prescribed by the State Board of Elections.

Source: 24-68 and new Constitution § 2, Article II.

Comment: The section follows the new Constitution. It leaves form up to State Board of Elections but makes it mandatory to use their form or forms. It is noted here that it is the intention of the Commission that an "X" (mark) may constitute a signature.

§ 24.1-49. Regular Registration Day and Other Days for Registration.—Each general registrar in this Commonwealth shall, thirty days before the day fixed by law for every regular primary election and every general election which will be held in his jurisdiction, hold a Regular Registration Day and such additional days, other than the Regular Registration Days, for the registration of qualified voters, which shall be not less than one day each month, and such other additional registration days and places for registration as may be ordered by the Electoral Board.

The general registrar shall give notice of the time and place at which he will sit for Regular Registration Days at least ten days before each day. In the case of provision for other times and places for registration, the general registrar may publish a notice annually containing the schedule of such times and places for registration for the following year or comply with the notice provisions for the Regular Registration Days. Such notices shall be printed and either posted at ten or more public places in the jurisdiction or published once in a newspaper of general circulation therein.

Source: 24-74, 75 & 76

Comment: Section contains entirely new draft of provisions for registration days and places. Sets up a minimum number of days and leaves additional times to electoral board.

§ 24.1-50. No Registration Between Regular Day and Election; and Prior to Special Election.—After the completion of the registration on the Regular Registration Day fixed therefor as provided in § 24.1-49, and in the event that an election is to be held within the county or city, no additional persons shall be registered until after the day on which the succeeding primary or general election is held.

For the purpose of registering voters, all registration books not previously closed as hereinabove provided shall be closed for a period of six days next preceding and including the day of any special election or of any election upon a referendum.

Source: 24-82 & 83.1

Comment: Sections provided for closing of books before general primary and special elections are combined but, in the case of a primary or general election, the books will only be closed in the event that an election is to be held within the county or city.

§ 24.1-51. Effect of Change of Name of Voter and Notice By Voter to Registrar.—Whenever the name of any registered voter shall have been changed, either by marriage or order of court, or otherwise, such voter shall notify in writing the general registrar in whose jurisdiction such voter is registered and the general registrar shall enter each change of name upon the registration books.

Source: 24-81

Comment: Clearly places burden on voter whose name is changed to notify registrar.

§ 24.1-52. Transfer of Voter to Another Election District in Same County, City.—Whenever a registered voter changes his place of residence from one election district to another, in the same county or city, he

shall promptly notify in writing the general registrar of his removal and the address of his new residence. Such notification shall be sufficient to entitle him to be registered in the election district to which he has removed, on its appearing to the satisfaction of the registrar that he has resided, prior to the next election, in such district for thirty days. At any time other than within six days prior to the election, the registrar shall enter the name of every such person on the registration books of the election district to which the voter has removed.

Cross Reference to § 24.1-46 (8).

Source: 24-85

Comment: Under section voter is required to notify in writing registrar of change and such notification is sufficient for registrar to switch to new precinct. Section as written proposes a cut off of transfers within city or county 6 days before election.

§ 24.1-53. Transfer of Voter to Another County or City.—Whenever a registered voter changes his place of residence from one county or city to another in the Commonwealth, he shall request, in person or in writing, the registrar of his former election district, whenever the registration books be open, to furnish a certificate that he was duly registered in such district, and that his name has been removed from the registration books of such election district, which certificate shall be delivered to the registrar of the election district in which he then resides and offers to be registered, and will entitle him to be registered in such district, on its appearing to the satisfaction of such registrar that the voter will have met the residency requirements of the Constitution of Virginia, and the name of every such person shall be entered on the registration books of the election district in which such person resides any time during which the registration books be open.

No registered voter registered in this Commonwealth shall be entitled to be registered in any other county or city unless there shall have been delivered to the registrar of the county or city in which the voter offers to be registered the certificate of transfer provided for herein.

Cross Reference to § 24.1-46 (8).

Source: 24-86 & 87

Comment: Sections combined and now require action by voter to transfer.

§ 24.1-54. Registration Records in Counties and Cities.—The records of the registration of voters in each county and city shall only be maintained in such books and system as is approved by the State Board of Elections.

Source: 24-118

Comment: This section requires registration records to be kept in a system approved by the State Board. This broad power to the State Board is consistent with the new Central Registration Roster and the transition thereto.

§ 24.1-55. Voter Whose Name Erroneously Deleted From Books.—If any voter whose name has been erroneously deleted from the registration books, except by purge, shall appear at any election and offer to vote, upon satisfactory proof that he is qualified to vote and that he has not

changed his residence since his registration, his name shall be restored to the registration books by the officers of election, and he shall be permitted to vote. In such event the voter shall subscribe a statement, under penalty of perjury, that he is a duly qualified and registered voter, resident of that election district and not subject to purge pursuant to §§ 24.1-59 through 62. In such case, the decision of a majority of the officers of election shall control.

Source: 24-95

Comment: Section broadened to include any erroneous election of a voter from the books and a sworn statement by the voter replaces him and allows him to vote. Spells out actions controlled by a majority of officers of election.

§ 24.1-56. Books Open to Public Inspection.—Registration books shall be kept and preserved by the general registrar and shall be opened to the inspection of any qualified voter at the office of the registrar when the office is open for business. In addition, such book shall be available for inspection upon appointment, which appointment the general registrar shall make for all reasonable times requested. In any event, such books shall be available at additional days and times fixed by the secretary of the electoral board.

Source: 24-113

Comment: The language on the registration books being open to public inspection has been made more specific. The books shall be open when the office is open for business and provision is made for the books being available on appointment which will help make the books available where there are part-time registrars.

§ 24.1-57. Delivery of Books to Election Official.—The election official designated by the electoral board shall obtain the registration books from the general registrar and the voting machine keys from the electoral board as provided in § 24.1-216, not later than the time prescribed in § 24.1-98 for the opening of the polls on election day. By Noon of the day after such election, the officers of election shall return the registration books to the registrar.

Source: 24-114

Comment: First sentence rewritten to require election official to pick up registration books and return at same time as vote tally. To this section has been added the requirement that such officer pick up the voting machine keys also consistent with the changes in 24.1-211 and 24.1-216.

§ 24.1-58. When Registration Books Destroyed.—Whenever the registration books have been destroyed by fire or otherwise, the electoral board shall instruct the general registrar to proceed forthwith to reconstruct such registration books.

The general registrar shall give notice that he is reconstructing such books by posting at ten places in the jurisdiction or publication once in a newspaper having general circulation in the jurisdiction.

In such reconstruction the registrar shall place upon the registration books or 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 books, and who still reside in such election district.

Source: 24-91

Comment: Section shortened and changed to require registrar to “reconstruct” books or records and thus avoid use of “new registration” which may conflict with new Constitution.

§ 24.1-59. Books be Automatically Purged.—As of December 31, 1974, and annually thereafter, the name of any voter who has not voted at least once during four consecutive calendar years shall be purged from the books by the General Registrar. The various records concerning such purged names shall be retained for a period of two years.

Source:

Comment: Rewritten to require automatic purge of those who fail to vote within four years beginning as of December 31, 1974. Requires records be kept for two years.

§ 24.1-60. Registrar to Give Notice of Names of Persons to be Purged.—When such books are purged pursuant to the provisions of § 24.1-46 or 24.1-59 it shall be the duty of the registrar within ten days prior to either of the regular days of registration, to post printed lists, at not less than three places in the district, including the voting place therein, of the names of all persons who in the judgment of the registrar, or who may be alleged by any three qualified voters of the election district, to be improperly on the registration books of that district. The list shall be certified by the registrar. In addition to the posted list, the registrar shall send a notice by mail to the last known address of each voter on the list, stating the time or times at which 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 books.

Source: 24-97 & 107

Comment: No substantive change.

§ 24.1-61. Hearing and Decision of General Registrar as to Such Names; Evidence of Change of Residence.—At the time or times stated in the notice the registrar shall hear the testimony produced, and if he be satisfied that any person mentioned in the notice has removed from the election district, has died, or for any reason is not entitled to be on the registration books of the precinct, he shall strike his name from the registration books. Nothing herein contained shall prevent the voter from applying to the general registrar for a transfer to his proper precinct, provided the registration books or 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 any voter so challenged fails to appear and defend his right to be retained on the registration books of the precinct, his name shall be stricken therefrom by the general registrar.

Source: 24-108 & 98

Comment: The only substantive change has been to include a time limit on the continuation of a hearing to thirty days instead of the nebulous “from time to time” as in the present law.

§ 24.1-62. Appeal From Decision of Registrar as to Purging.—From the decision of the registrar whereby any person is stricken or purged from the registration books, such person shall have the right of appeal, as provided in § 24.1-67, and from the decision of the registrar refusing to strike or purge from the registration books any person alleged to be improperly on the registration books, any qualified voter of the county or city shall have the like right of appeal.

Source: 24-99 & 109

Comment: No substantive change.

§ 24.1-63. Petition to Court Objecting to Registration.—In addition to the method of purging the registration books prescribed in §§ 24.1-59 to 62 any three qualified voters in any election district may file with the court of record where deeds are recorded of the county or city wherein the election district is located, a petition setting forth the objections of the petitioners to the registration of any person whose name is on such registration books.

Source: 24-102

Comment: No change.

§ 24.1-64. Notice to Person Objected to and Decision of Court.—Fifteen days' notice shall be given to the person or persons whose registration is objected to, and the court shall summarily proceed to determine the right of such person or persons to registration. Such 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 section 24.1-50 requiring the registration books to be closed.

Source: 24-103

Comment: This section has been rewritten for clarification. The last sentence has been added which removes the thirty-day period when the books are closed for purpose of court orders concerning a voter's registration.

§ 24.1-65. Appeal From Decision of Court.—From the judgment of the court an appeal shall lie, as a matter of right, to the Supreme Court of Appeals, and such appeal shall be placed upon the privileged docket and be heard at the next ensuing session of the court.

Source: 24-104

Comment: No substantive change.

§ 24.1-66. Presumption if Petition Not Brought Within Six Months of Registration.—Unless the petition provided for in § 24.1-63 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 requirements of the law.

Source: 24-105

Comment: The unnecessary details have been deleted. Now the section will work under either constitution.

§ 24.1-67. Appeal of Person Denied Registration.—Any person denied registration shall have the right to appeal, without payment of writ tax or giving security for costs, to the court of record wherein deeds are recorded of the county or city in which he offers to register by presenting to such court or judge, within ten days thereafter, a petition in writing to have his right to register determined, containing a statement of the facts proved before the registrar, to which the registrar shall make answer in writing. The matter shall be heard and determined upon such petition and answer and such evidence as may be introduced in support thereof. Such proceedings shall take precedence over all other business of the court or judge, and shall be heard as soon as possible. Upon the filing of such petition the clerk of the court shall at once give notice to the Commonwealth's attorney for his county or city, whose duty it shall be to appear and defend against the petition in behalf of the Commonwealth. Judgment in favor of the petitioner shall entitle him to registration. From a judgment rendered against him an appeal shall lie to the Supreme Court of Appeals.

Source: 24-112

Comment: No substantive change.

§ 24.1-68. Registrar to be a Conservator of the Peace.—Every registrar shall preserve order at and in the vicinity of the place of registration; and to enable him to do so, he shall be clothed with all the powers of a conservator of the peace, while engaged in the duties imposed by law. He may exclude from the place of registration all persons whose presence he deems unnecessary, and may appoint special officers, not exceeding three in number, in each election district and may summon the bystanders or other persons in the vicinity to assist whenever, in his judgment, it shall be necessary to preserve order.

Source: 24-115

Comment: No substantive change.

§ 24.1-69. Persons Registered Prior to this Act.—Any person validly registered to vote as of the effective date of this title shall continue to be registered subject to the provisions of this title.

Source: New, 24-117

Comment: Replaces 24-117. Continues those validly registered subject to new law, such as, residence definition and four-year purge.

§ 24.1-70 (RESERVED)
§ 24.1-71 (RESERVED)
§ 24.1-72 (RESERVED)

CHAPTER 6

COMMONWEALTH AND LOCAL OFFICERS

Article 1.

In General.

§ 24.1-73. When Officers to Enter Upon Their Duties.—All officers chosen at a general election shall, unless heretofore otherwise provided by charter or statute, enter upon the duties of their respective offices on the first day of January next thereafter, except that the terms of office

of mayors, and members of councils of cities and towns shall begin on the first day of September succeeding their election. They shall continue to discharge the duties of their respective offices until their successors shall have qualified.

Source: 24-142, 169

Comment: This section concerning when terms of office begin has been exempted from heretofore passed charter or statute provisions. It is the desire of the Commission to bring about as much uniformity as possible in terms of office and limit future exceptions to this section.

§ 24.1-74. Local Elections Not Provided For.—In case the election to any public office required to be filled by the qualified voters of any county, city, or election district shall not be specially provided for by law, an election to such office shall be had at the general election held next before the time provided for the term of such office to commence.

Source: 24-143

Comment: Where no election time is set by another provision, this section now makes holding of election mandatory instead of permissive.

§ 24.1-75. 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 be required, and continue for the unexpired term of such office.

Source: 24-144

Comment: No substantive change.

§ 24.1-76. Appointment to Fill Certain Vacancies; and Election.—When a vacancy occurs in any county, city, town or district office and no other provision is made for filling the same, it shall be filled by the resident judges of the courts of record of the county or city in which it occurs. If there be more than one resident judge and a majority of such judges cannot agree, then the senior judge shall make the appointment subject to the approval of other such judge or judges. If there be no resident judges, then the judge of the court of record shall make the appointment. When a vacancy occurs, if there be a deputy in the office, then the chief or senior deputy thereof shall perform all the duties of such office until the qualification of the person appointed to fill the vacancy.

When any such vacancy shall occur, the court shall issue a writ of election to fill such vacancy. Such election shall be held at the next ensuing general election. The officer so elected shall hold the office for the unexpired term of his regularly elected predecessor in office. The person so appointed to fill the vacancy shall hold office until the qualified voters shall fill the same by election and the person so elected shall have qualified. In the event the vacancy occurs within one hundred twenty days prior to the next ensuing general election, the writ of election shall issue for an election to fill the vacancy at the second ensuing general election.

Source: 24-145

Comment: Change requires resident judges to fill all appointments and senior judge, with approval of others, in event no majority

reached. In light of Article 6, § 12 of Proposed Constitution, new paragraph concerning term of appointment being only until election to fill vacancy has been added.

§ 24.1-77. Appointees to Qualify and Give Bond in Thirty Days.—All officers appointed under the preceding section to fill vacancies shall, within thirty days after their appointment, qualify and give bond, if bond be required, before any judge of the court of record making the appointment or before the clerk of the court having authority to make such appointment, in like manner as is provided by § 15.1-38 for the qualification of such officers when elected by the people; and if he qualify before the judge in vacation, the judge shall certify the fact, and the certificate and bond shall be returned and recorded as provided by law.

Source: 25-146

Comment: No substantive change.

§ 24.1-78. When Officer is Declared Mentally Incompetent, Office Shall Become Vacant.—Whenever any officer, whether his office be executive, judicial, ministerial, elective or appointive, shall be determined to be mentally incompetent, the office held by him shall become vacant, and any vacancy occurring by reason thereof shall be filled in the manner provided by law for filling vacancies in such offices.

Source: 24-147

Comment: Only substantive change is to update reference to "lunatic, or insane person."

§ 24.1-79. Election, in Lieu of Appointment, to Fill Vacancy in Governing Body.—When any person elected at a regular election as a member of the governing body of any county, city, or town shall die or for any reason become unable or decline to serve prior to qualifying as such officer, then the judge or judges of the courts of record, as set forth in § 24.1-76, shall, in lieu of appointing a successor for the term for which such person did not qualify, issue a writ of election as provided in § 24.1-163 to fill such vacancy. The procedure as to such election shall in all respects conform to general law.

Source: 24-147.1

Comment: Broadened to include any city or town governing body—if person dies or declines to serve before qualifying to hold office, then election shall be held.

Article 2.

Commonwealth Officers.

§ 24.1-80. Governor, Lieutenant Governor and Attorney General; Term of Office.—The Governor, Lieutenant Governor and Attorney General, shall be chosen by the qualified voters of the Commonwealth at the general election to be held on the Tuesday after the first Monday in November, of the year one thousand nine hundred seventy-three and every fourth year thereafter, and shall hold their offices for a term of four years, to commence on the Saturday after the second Wednesday in January following their election.

Source: 24-148

Comment: No substantive change.

§ 24.1-81. How Election of Governor and Lieutenant Governor Determined.—The State Board of Elections, on the first day of the session of the General Assembly next succeeding the election of a Governor and Lieutenant Governor, shall deliver the returns of such election to the Speaker of the House of Delegates, who shall within three days thereafter, in the presence of a majority of the Senate and House of Delegates, open the returns, and the vote shall be counted, and the election determined in conformity with the provisions of Section Seventy of the Constitution.

Source: 24-149

Comment: No change.

Note: The provisions of the proposed new Constitution will require amendment of this section 1971 (Article V, Section 2).

§ 24.1-82. Discharge of duties when offices of Governor and Lieutenant Governor vacant.—When vacancies occur in the offices of Governor and Lieutenant Governor, the duties of the office of Governor shall be discharged by the Attorney General, if elected by the people, or if the Attorney General holds office by appointment, or be ineligible, then by the Speaker of the House of Delegates, or if the office of Speaker of the House of Delegates be vacant or the Speaker be ineligible, then by the President pro tempore of the Senate, or if the Senate be not in session, then by the person who was President pro tempore at the close of the last preceding session, until a Governor is elected and qualified. In the event of vacancies in all of the offices mentioned in the preceding sentence, the office of acting Governor shall devolve upon the chairmen of the standing committees of the House of Delegates and the Senate, alternating between the House and the Senate, in the order of seniority as set forth in the Rules of the House and the Rules of the Senate, or if all such offices be vacant, then the living persons who have held the office of Governor, who are at the time of such vacancy physically and mentally able to discharge the duties of the office, and who are not prohibited by law from holding a State office; the office of acting Governor shall be filled from such group in inverse order as they held the office of Governor; and in the event there is no such person, then the Chief Justice of the Supreme Court of Appeals, or if there be none, the judge longest in continuous service as judge of a court of record in the Commonwealth, shall become acting Governor. While so discharging the duties of the office of Governor, such person shall not act as President pro tempore of the Senate, or as Speaker of the House of Delegates, as the case may be, nor vote as a member thereof, nor act as Attorney General or as a member of the House of Delegates or the Senate, or justice or judge of a court of record, but his office shall not be vacated except for the period during which he acts as Governor.

Source: 24-150

Comment: No change.

Under Article 5, § 16 of Proposed Constitution, this section will become inoperative.

§ 24.1-83. Filling vacancy in offices of Governor and Lieutenant Governor.—Such acting Governor shall, within five days after such vacancy occurs, issue writs of election for the unexpired terms of Governor and Lieutenant Governor, to be held within sixty days from the issuing of such writs. If the General Assembly be not in session at the time of

such election, or be not otherwise convened within sixty days thereafter, it shall be the duty of such acting Governor to convene the same within the sixty days in order that the vote may be counted in the mode prescribed by the Constitution.

Source: 151

Comment: No change.

Note: Under Article 5, section 16 of the proposed Constitution, this section will become inoperative.

§ 24.1-84. Discharge of duties when office of Lieutenant Governor vacant; filling vacancy.—When a vacancy occurs in the office of Lieutenant Governor only, 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. If there shall be a general election held during the unexpired portion of the term of such Lieutenant Governor, the vacancy shall be filled at such general election.

Source: 24-152

Comment: No change.

§ 24.1-85. How vacancy in office of Attorney General filled.—When a vacancy occurs during the session of the General Assembly in the office of Attorney General, it shall be filled by election by the joint vote of the two houses. If such vacancy occur during a recess of the General Assembly, the Governor shall fill, pro tempore, the vacancy by commission to expire with the expiration of such unexpired term or at the end of thirty days after the commencement of the next session of the General Assembly which ever shall happen first. At such next session, the General Assembly shall fill such vacancy by election by the joint vote of the two houses for the unexpired portion of the term.

Source: 24-153

Comment: No change.

Article 3.

City, County and District Officers.

§ 24.1-86. County and City, Sheriff, City Sergeant, Commonwealth Attorney, Treasurers, Commissioners of Revenue; When Elected; Term.—The qualified voters of the various counties shall elect a sheriff, an attorney for the Commonwealth, a treasurer, and a commissioner of the revenue at the general election in November, nineteen hundred and seventy-one, and every four years thereafter.

The qualified voters of the various cities shall elect a city sergeant, an attorney for the Commonwealth, a treasurer, a commissioner of the revenue, and such other elective city officers not otherwise provided for by law or charter, at the general election in November, nineteen hundred and seventy-three, and every four years thereafter.

Such officers shall hold office for a term of four years from the first day of January next succeeding their election.

Source: 24-154, 161 & 167

Comment: Section combined and simplified.

§ 24.1-87. County and City Clerks of Courts of Record; When Elected; Term.—The qualified voters of the several counties shall elect a clerk of the court of record of the county at the general election in November, nineteen hundred and seventy-five and every eight years thereafter. Such clerks shall hold office for a term of eight years from the first day of January next succeeding their election.

The qualified voters of the several cities having a court or courts of record shall elect a clerk or clerks of the court or courts of record of the city at the general election in November, nineteen hundred and seventy-nine, and every eight years thereafter. Every clerk of a court of record elected prior thereto for a term of eight years, which term may have expired, shall continue in office until the first day of January nineteen hundred and eighty.

Source: 24-155 & 162

Comment: Sections combined. In the second paragraph will be found a provision which means that the next election for clerk of court in the cities will be 1979 with terms beginning in 1980. There is also provision extending the terms of those clerks whose terms would have ordinarily expired. This situation is brought about by §§ 24-162 through 166 inclusive. These five code sections each provide different election days for clerks and different beginning dates for their terms. This problem can only be solved by extending terms to some common date, far enough in the future to reach past all of the present terms—hence 1979.

§ 24.1-88. County Supervisors.—In each magisterial district there shall be chosen by the qualified voters thereof at the general election in November, in the year nineteen hundred and seventy-one and every four years thereafter, one supervisor who shall hold office for the term of four years, except as may be provided by law for those counties having the optional forms of government.

Source: 24-157

Comment: The last proviso has been added which allows counties with optional forms of government to be without this section.

§ 24.1-89. Justices of the Peace.—In each magisterial district of each county there shall be elected by the qualified voters thereof at the general election in November, in the year nineteen hundred and seventy-one, and every four years thereafter, one justice of the peace who shall hold office for a term of four years.

Source: 24-158

Comment: Makes only one elected and balance appointed by court as necessary. Appointment of J. P.'s is provided for in Title 39.1.

Article 4.

Local Officers.

§ 24.1-90. City and Town Mayor.—In each city of this Commonwealth unless otherwise provided by charter, there shall be elected by the qualified voters thereof on the first Tuesday in May, nineteen hundred and

seventy-two and every four years thereafter, a mayor, who shall be the chief executive officer of such city, whose term of office shall begin on the first day of September succeeding his election, and continue for four years thereafter.

In every town, unless otherwise provided by charter, there shall be elected every two years, on the first Tuesday in May, one qualified voter of the town, who shall be the mayor, and other qualified voters who shall be the councilmen of the town. The mayor and councilmen shall constitute the council of the town. The persons so elected shall enter upon the duties of their office pursuant to § 24.1-73, unless otherwise provided for by law or charter, and shall continue in office until their successors are qualified.

Source: 24-160, 168

Comment: Combined sections and deleted reference to number brackets for town council. The election date for city and town elections has been moved from June to May.

§ 24.1-91. Notice of Candidacy, Etc.—Where the election is held in an incorporated town for town officers, it shall be the duty of all persons who intend to be candidates for office in the town to give notice of their candidacy to the secretary of the electoral board of the county in which the town is, as provided by § 24.1-166, and the electoral board shall print and deliver the ballots and hold the election in the manner provided for general elections. All the provisions of Chapter 7 of this Title, not inconsistent with the provisions of this chapter, in regard to the time and conduct of the election, counting of ballots, and certifying results shall apply. One copy of the abstract of votes shall be forwarded to the town council and recorded in its record book.

Source: 24-170, 173, 175

Comment: Sections combined and rewritten for clarity.

§ 24.1-92. Voting Places.—There shall be but one voting place in each town, which shall be fixed by ordinance, unless the council thereof by ordinance shall provide for, establish and lay off the town into voting precincts, in which event they shall also fix the voting places in each precinct, provided, however, that if the voting place or places be not fixed by ordinance, the same shall be fixed by the officers of election of the respective precincts.

Source: 24-171

Comment: No substantive change.

§ 24.1-93. Town Election Process; Notice of Election.—The electoral board and registrar of the county within which a town, or the greater part thereof, is situated has control of the election process and the duty to carry out the applicable provisions of this title concerning towns. Five days' notice of the time and place or places of such election shall be given by the secretary of the electoral board to the qualified voters of the town. Such notice shall be written or printed and posted at three or more public places within the town, or published once in a newspaper of general circulation in the town. The cost of all such elections shall be borne by the governing body of the town.

Source: 24-172 and 24-56

Comment: New paragraph added at beginning spelling out who is responsible for town election process. The last sentence has been added spelling out the town's responsibility to pay for all town elections.

§ 24.1-94 (RESERVED)

CHAPTER 7
THE ELECTION.

Article 1

The Election.

§ 24.1-95. **To What Elections Applicable.**—The provisions of this title shall apply to all elections held in this Commonwealth except as is otherwise provided.

Source: 24-176

Comment: No substantive change.

§ 24.1-96. **Cost of Elections.**—The cost of conducting elections under this chapter shall be paid by the counties and cities, respectively.

Source: 24-177

Comment: No change.

§ 24.1-97. **Polling Places Provided and Opened.**—The governing body of each county and city shall provide funds to enable the electoral board to make provisions at each polling place in such county and city for an adequate place or building in which elections may be held and conducted.

Polls shall be opened at each place of voting prescribed by law in all counties, cities, towns, and election districts in which officers are to be elected by the people.

When any city lies wholly within the bounds of any magisterial district of any county, in any election a polling place for such magisterial district, or any election district therein, may be located within the boundaries of such city.

Source: 24-179, 180, 181

Comment: Requirement changed to provide polling place placed on cities as well as counties.

§ 24.1-98. **Hours Polls to be Open.**—At all elections, the polls shall be open at each voting place at six o'clock a.m. of the day on which the election is directed to be had and closed at seven o'clock p.m. of the same day, such times being either eastern standard or daylight saving time as is in effect at such poll on the day of election under the provisions of § 1-15 as the same may be amended from time to time.

Source: 24-182

Comment: No change except to remove last sentence relative to persons in line and put in next section 24.1-99.

§ 24.1-99. How Polls Closed.—Proclamation shall be made of the closing of the polls by an officer of election fifteen minutes previously thereto. The officers of election shall ascertain and make a list by name of the qualified voters, if any, in line before the polling place at the hour of closing, and shall permit such voters and no others to cast their ballots. As soon as the polls are finally closed and the last ballot deposited, the officers shall immediately endorse on the poll books immediately after the name of the last voter thereon the words “Polls Closed”, the date of the election and the time of the closing, and at once affix their signatures following such endorsement.

Source: 24-184

Comment: Sentence from old § 24-182 added. No substantive change.

§ 24.1-100. How Voting Places Arranged.—It shall be the duty of the electoral board of the several counties and cities to provide at each of the voting places in their respective counties and cities a small compartment or booth large enough to contain and conceal from general observation a voter and a desk or other convenience for writing. In such booth there shall be placed operative writing implements and be lighted sufficiently for the voter to be able to read the ballot. Such compartment or booth shall be so erected that a person standing at the desk in the booth or compartment shall be excluded from the observation of the officers of election and of other persons. The Board, in its discretion, may have one or more of such booths at each such voting place.

Source: 24-185

Comment: Reference to “pen and ink” has been taken out and more general terminology inserted and reference to sufficient lighting added.

§ 24.1-101. No Loitering Near Polls; Signs Erected.—During the receiving and counting of the ballots, it shall be unlawful for any person to loiter or congregate within one hundred feet of any entrance of any polling place; in any manner to hinder or delay a qualified voter in reaching or leaving a polling place; 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.

The officers of election shall, prior to the opening of the polls, determine the area designated, delineate the boundaries of such prohibited area, and post sufficient notices which set forth the words “Prohibited Area” in two inch type and also set forth the provisions of this section and § 24.1-254 in not less than twenty-four point type. The officers of election shall post the notices on the prohibited boundary to be visible to the voter and the public.

Source: Draft

Comment: New section prohibits campaigning activity within 100 feet of any entrance to the polls and requires posting of notices on boundaries of area.

§ 24.1-102. Officers to Decide Order of Voting.—The officers of election shall promptly decide any dispute as to precedence of qualified voters to the right to vote, deciding who first offered, or if two or more offered at the same time, selecting the one to whom precedence shall be given.

Source: 24-187

Comment: No substantive change.

§ 24.1-103. **Preservation of Order at Elections.**—Any law enforcement officer who may be designated for the purpose by the officers of election with the consent of the chief law enforcement officer, shall attend at the place of election and preserve order at and about the same. If no law enforcement officer be in attendance, the officers of election may, by writing, appoint one or more persons specially, who shall have all the powers of a law enforcement officer in the premises and within the area prescribed by § 24.1-101.

Source: 24-189

Comment: Only changes in terminology and give power of law enforcement officer to designate person to preserve within area of 100 feet.

§ 24.1-104. **Intimidation, Etc., of Voters; Disturbance of Election; How Prevented.**—The officers of election, if it shall appear that voters are being hindered or tampered with in any way so as to prevent the casting of a secret ballot, may order the person so engaged in hindering or tampering with voters to cease such action, and if such person so engaged does not forthwith 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 confine him or them in the county or city jail, as the case may be, not exceeding twenty-four hours, and such person, upon conviction thereof, shall be punished as for a misdemeanor.

If any person conduct himself in a noisy, riotous, or tumultuous 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 him and bring him before the officers of the election, and they, by warrant under their hands, may commit him to the jail of the county or corporation for not exceeding twenty-four hours; but they shall permit him to vote if he be so entitled.

Source: 24-190, 192

Comment: Two sections combined. Some language deleted from 24-190 which appeared to be covered by new 24-186.

§ 24.1-105. **Appointment of Officers of Election.**—It shall be the duty of the electoral board of each city and county, at their regular meeting in the first seven days of the month of February each year, to appoint not less than three competent citizens, being qualified voters, whose terms of office shall begin on the first of March following their appointment, who shall constitute the officers of election for all elections to be held in their respective election districts for the term of one year or until their successors are appointed. The electoral board shall designate one officer as the chief officer of election and one officer as the assistant for each precinct. If any person so appointed is for any reason 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. A list containing the names of election officers so appointed shall be made available for inspection and posted in the general registrar's office in the county or city for which they are appointed prior to the date on which their term of office begins. The mere failure to so appoint shall not render void any election.

Source: 24-193

Comment: The limitation of three officers of election removed and a limitation of "Not less than three" is inserted. List of appoint-

ments are to be made public. This section requires the board to designate one officer the chief and one officer the assistant for each precinct.

§ 24.1-106. Qualification of Officers of Election.—Whenever it is possible to do so, the persons appointed officers of election shall be chosen for each polling place from a list of names of competent persons of good moral character submitted by the two political parties casting the highest and next highest number of votes at the last gubernatorial election. Such nominations shall be made to the secretary of the electoral board at least ten days prior to the first day of February of each year.

Source: 24-195

Comment: Requires board to make effort to appoint officers of election from political party list.

§ 24.1-107. Compensation of Officers.—The officers of any election shall receive as compensation for their services the sum of twenty dollars for each day's service rendered. The governing body of any county, city or town may increase the compensation herein prescribed for officers of election.

The officers of election picking up and returning the poll books and carrying the returns and ballots to and from the polling place shall receive from the local governing body compensation for one day and mileage as paid to the members of the General Assembly.

24-207, 208, 209

Comment: Conforms treatment of compensation with other areas in the law. Provision added concerning expenses.

§ 24.1-108. Appointments When All Officers Fail to Attend.—Should any of the officers appointed for any place of voting fail or refuse to attend or to act at the place of voting for one hour after the time prescribed by law for opening the polls at such election, it shall be the duty of the remaining officers of election, if any, to appoint substitute officers of election for such election district, who shall possess the same qualifications and upon taking the requisite oath shall have the same powers as officers appointed by an electoral board.

Source: 24-197

Comment: Leaves appointive power, if officers fail to attend, in other officers of election. Makes section cover any or all of officers of election. Last sentence deleted which made it so that three voters could take over if no one appointed.

§ 24.1-109. List of Candidates Filed with State Board of Elections and Checked for Accuracy; When Ballots Printed; Number Required.—Immediately after the expiration of the time within which the names of candidates may be filed as provided by law and prior to printing the ballots, for an election the several electoral boards shall forward to the State Board of Elections a list of the names of the candidates and of the offices to be filled and the State Board of Elections shall advise the respective electoral boards of the accuracy of such list immediately; provided this requirement shall not apply to ballots printed under Article 2 of this Chapter. However, the failure of any electoral board to send said lists for verification to the State Board of Elections shall not invalidate any elec-

tion. Except as provided in § 24.1-160, it shall be the duty of the electoral boards of the several counties and cities of this Commonwealth, as soon as practicable after the secretary is officially notified of the names of the candidates in any election, and at least thirty days prior to any primary or general election, or in the case of a special election, at least thirty days prior to the election or as soon thereafter as possible, to cause the ballots to be printed in a sufficient number to be determined by the respective electoral boards. Only those names to be voted on in a particular election district shall appear on the ballots for that election district.

Source: 24-213, 214

Comment: Removes the limitations on number of ballots which local board can print and leaves it entirely in discretion of such boards. Places the limitation of names on ballot from 24-214 at end of this section.

§ 24.1-110. Placing Additional Name on Ballot Where Party Nominee Dies or Withdraws After Expiration of Time for Qualifying.—Whenever any candidate of a political party who has been nominated in any primary election or convention, or by any other lawful means, dies or withdraws as a candidate at a time when it is too late under the general statutes for a candidate for the office involved to qualify to have his name printed on the official ballot for the general election, it shall be permissible for such political party to nominate and file the required notice of a new candidate pursuant to § 24.1-197. If the same is filed with the proper official at least twenty 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 such person so qualifying as provided in this section, or

(2) If ballots for the election have already been printed and contain the names of candidates for other offices to be voted on at such election, any such electoral board may in its discretion cause to be stricken therefrom the title of the office involved, and the names of all candidates for such office appearing thereon, and cause separate ballots to be printed for such office on which shall be printed the name of all such candidates qualifying under the provisions of this section.

If the candidate so dying or withdrawing is a candidate for an office to which more than one person is to be elected and none of such candidates, prior to such death or withdrawal was opposed, 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 under the provisions of this section.

Whenever any additional candidate shall qualify pursuant to this section, no ballots theretofore cast by mail 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 such candidates for such office.

Source: 24-234, 235

Comment: First paragraph rewritten to clearly limit new person in race only to party nominee and not throw race open entirely. This is consistent with Supreme Court of Virginia ruling in the Clarke case about Tom Frost's seat.

§ 24.1-111. Form.—The ballots shall be white paper without any distinguishing mark or symbol and shall contain the names of all the candidates complying with the provisions of the law, printed in black ink, immediately below the office for which they have so announced their candidacy, and the names of political parties for which candidates may be nominees shall appear as set forth herein. The names on the ballot, in order determined as set forth herein, shall be in clear print, each name in a separate line, and the type used in printing the ballots shall be plain roman type, not smaller than twelve point pica. Immediately to be 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 an inch in size, printed thus:

[] JOHN DOE

Except as provided for primary and special elections, the order of the names appearing on the ballot shall be determined as follows: In elections where more than one county or city is involved, the State Board of Elections, and in other elections the local electoral board, shall determine by lot the order of the political parties and the names of all candidates grouped by office shall appear below their respective parties. Where there be more than one candidate representing a political party running for an office, the candidates' names shall appear alphabetically below the political party. For the purpose of this section, independents shall be treated as a class under "Independent" and where there be one or more independent candidates for an office, the class "Independent" shall be deemed a political party.

Source: 24-215

Comment: Section changed to provide a uniform method of determining order of party and candidates. Provisions included showing party affiliation of candidates.

§ 24.1-112. Form to be same in places where vote is for same offices.—In submitting proposed amendments to the Constitution to the people, the same shall be printed on a separate ballot; and in submitting to the qualified voters the question set forth in section one hundred ninety-seven of the Constitution, such questions shall be printed on a separate ballot; provided, that the names of all candidates for President and Vice President and for Presidential Electors shall be printed on a separate ballot; provided, further, that the names of all persons voted for by a qualified voter shall be on a ballot; and the form thereof shall be the same in all places when the same persons shall be voted for to fill the same office.

Source: 24-216

Comment: No substantive change.

§ 24.1-113. To Indicate Number of Candidates to be Voted For.—It shall be the duty of the State Board of Elections and the electoral boards, in preparing the ballots for general, special and primary elections, to cause to be printed in not less than eight point type, immediately below the title of any office for which there appear on the ballots the names of more than one candidate, a note stating the number of candidates who may be voted for for that office. The following language shall be used: "Vote for not more than "

Source: 24-217

Comment: Change puts duty on State Board in addition to electoral board and specifies minimum size type and language to be used in the event of more than one office up for election.

§ 24.1-114. Oath of the printer.—The printer with whom the board shall contract for the printing of the ballots shall, before the work is commenced, take an oath before the secretary of the board, who is hereby empowered to administer such oath, to the following effect: “I, -----, solemnly swear that I will print (here insert number) ballots according to the instructions of the electoral board of the county (or city) of -----; that I will print, and permit to be printed, directly, or indirectly, no more than the above number; that I 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 I will distribute the type used for such work, and that I will not communicate to any one whomsoever, in any manner, whatsoever, the size, style, or contents of such ballots.”

This oath shall be reduced to writing and signed by the person taking it, and also a similar affidavit shall be required of any employee or other person engaged upon the work, or who shall have access to it; and any intentional violation of such oath shall constitute the crime of perjury.

Source: 24-218

Comment: No change.

§ 24.1-115. Representative of Electoral Board to be Present at Printing; Custody of Ballots.—It shall be the duty of the electoral board to designate one person to be continuously present in the room in which the ballots are printed from the commencement until the end of the work, and see that the undertakings of the oath are complied with strictly. For the faithful discharge of such duty he shall receive the compensation of twenty dollars per day. Such person before entering upon the performance of such duties, shall take an oath that he will faithfully execute the same.

As soon as the ballots are printed they shall be securely wrapped and sealed, and such designated person shall take and keep them in his exclusive possession, allowing no one to examine them until delivered to the electoral board as provided by law.

Nothing contained herein shall 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.

Source: 24-219, 220, 220.1, 221

Comment: Sections combined. Changed so that electoral board may designate any person of their choice to be present at printing instead of a member of the board. In some areas this is custom now.

§ 24.1-116. Delivery of Ballots to Electoral Board; Checking and Recording Number.—The electoral board of each city and county shall

meet as soon as convenient after the printing of the ballots as provided for in this chapter, at which meeting only members of the board shall be present, and the designated person, who shall have secured from the printer the ballots as required by § 24.1-115, shall deliver such ballots to the board, and shall certify to the board the number of ballots so delivered which certificate shall be filed and also copied into the minutes of the meeting of the board.

The board shall satisfy itself as to the number of the ballots, which number shall be entered by the secretary of the board in a book provided by him and kept for such purpose.

Source: 24-223, 224

Comment: No substantive change.

§ 24.1-117. Sealing Ballots.—The electoral board shall designate one of its members or some other person, who shall cause the seal of the board to be affixed in his presence to every ballot printed as provided in this chapter, upon the side reverse from that upon which the names of the candidates appear. The seal shall be embossed on the ballot and may be done either mechanically or manually. Such member of the board or other person designated shall make affidavit that the seal of the electoral board was affixed to the ballots in his presence in the manner prescribed by law, in which affidavit shall be set forth the name of every person taking part in the affixing of the seal; and the affidavit shall be filed with the board and a copy thereof entered upon the minutes of the board. For his services in causing the seal to be affixed to the ballots, the member of the board or other person designated shall receive compensation in the amount of twenty dollars per day.

Any person not a member of the board so designated, before entering on the performance of such duties, shall take an oath that he will faithfully execute the same.

If any member of the board, other than the secretary be designated to attend to the stamping of the ballots, as soon as the stamping of the ballots is completed, the seal shall be forthwith returned to the secretary to be kept by him as herein provided.

Source: 24-225, 229

Comment: The only major change is to insert a sentence to make method of affixing seal clear, and allow seal to be embossed mechanically as well as manually.

§ 24.1-118. Affidavit of persons taking part in sealing ballots or packages.—Every person taking part in affixing the seal to the ballots or in placing the ballots in packages shall make affidavit that he will faithfully perform his duties and that he will not divulge to anyone the contents of such ballots or any part thereof, which affidavits shall be filed with the secretary of the board and retained as a part of the records of the board.

Source: 24-228

Comment: No change.

§ 24.1-119. Dividing Into Packages for Each Precinct.—The electoral board shall cause to be made, in the presence of at least one member of the board or some other designated person, as many packages of ballots

as there are voting precincts in the county or city, one for each precinct, which 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 they could not be readily opened without detection. Upon 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 designed for each precinct shall be delivered to the secretary of the board and remain in his exclusive possession until delivered by him to the officers of election of each precinct as provided in § 24.1-230.

Source: 24-226, 227

Comment: Changes allow person other than member of board to be designated to watch packaging of ballots and leaves number of ballots in package up to Board. Sections combined and now provides for the custody of ballots before delivery to precinct offices.

§ 24.1-120. Delivery of Packages to Officers.—Before every election the secretary of the electoral board shall deliver to the officers, or one of the officers, of election of each precinct the package of official ballots for that precinct, taking a receipt therefor and a certificate that the seals appeared to be untampered with. And in the event of the inability by sickness or other incapacity of the secretary to deliver the official ballots, the electoral board or the secretary may cause them to be delivered by another member of the board.

Source: 24-230

Comment: No substantive change.

§ 24.1-121. Opening Packages and Counting Ballots—The sealed package, at the opening of the poll, shall be opened in the presence of the officers of election, and the ballots in the packages shall then be carefully counted.

Source: 24-231

Comment: No substantive change.

§ 24.1-122. Sample Ballots.—Nothing contained in this Title shall be construed to prohibit: (a) The printing and circulation of “sample ballots”, provided such “sample ballots” are not printed on white paper and do include thereon the words “sample ballot” in type no smaller than 24 point, or (b) the publication in newspapers of “sample ballots”.

Source: 24-240

Comment: Changes terminology from “informative” to “sample” ballots.

§ 24.1-123. Ballot Boxes to be Supplied by Governing Bodies; Construction and Custody.—The governing body of each county and city shall, at the expense of their respective counties or cities, procure a ballot box for each place of voting in any election district, which box shall be provided with a lock and key and have 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 the use of their several election districts.

Source: 24-241

Comment: No substantive change.

§ 24.1-124. Opening and Closing Ballot Boxes; Opening Polls.—The officers of election, or one of them, immediately before proclamation is made of the opening of the polls, shall open the ballot boxes in the presence of the people there assembled, and turn them upside down, so as to empty them of everything that is in them, and then lock them, and the key thereof shall be delivered to one of the officers, and 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 for the purpose of counting the ballots therein and shall be kept in view of those voting within the polling place during the hours of the election.

Source: 24-242, 243

Comment: No substantive change.

§ 24.1-125. Qualified Voters Furnished With Ballot.—Every qualified voter at a precinct shall, when he so demands, be furnished with an official ballot by one of the officers of election selected for that duty by a majority of the officers present.

Source: 24-244

Comment: No substantive change.

§ 24.1-126. Entry of Name of Voter on Poll Book.—The officer by whom any ballot is to be delivered to a voter shall, prior to the delivery thereof to the qualified voter, make inquiry and then pronounce in an audible voice the full name and residence address as stated by the person to whom the ballot is to be delivered, and if his name is found on the registration book, and there be no objection made, the full name and address of the elector shall be checked on the registration book by one of the officers and such full name entered on the poll books, and correctly numbered and the voter thereupon delivered the ballot.

Source: 24-248.

Comment: This section has been changed to require the officer of election to check the person's name and address and see that he is registered prior to delivery of the ballot. In the event that a different address is given, proper note should be made by the officer.

§ 24.1-127. Voter in Active Service; Registration and Affidavit.—Whenever a majority of the officers of election of any precinct are satisfied, by such evidence as they may deem proper, that a person offering to vote in person in any election, is in active service as a member of the armed forces of the United States, and that such person is otherwise qualified to vote, they shall permit such person to vote in such election without being required to register, provided, however, that such person shall execute and file with the officers of election an affidavit subscribed and sworn to before an officer of election, substantially as follows:

“I do swear (or affirm) that I am now and have been a citizen and resident of the Commonwealth since the _____ day of _____

_____, 19___, and am a resident of the _____ (city or county) of _____ (name of city or county) residing at _____ (street and number or place of residence therein) and am now in active service in the armed forces of the United States; that I am twenty-one years of age; and that by exercising the privilege of voting I acknowledge and accept all of the responsibilities and obligations of full citizenship of the Commonwealth. The name or number of my voting precinct is _____ (if known, so state).

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

Officer of Election”

The affidavit shall be returned to the clerk’s office of the court of record wherein deeds are recorded with the ballots and shall be preserved by the said clerk as a public record.

Source: 24-23.1

Comment: No substantive change.

Note: The provisions of the proposed new Constitution will affect this by requiring absentee registration of servicemen. (Article II, Section 4)

§ 24.1-128. **Voter recently Discharged When Registration Waived.**—Whenever a majority of the officers are satisfied that the discharge from active service occurred at a time when the registration books were closed for the election, at which the person offers to vote, such person’s right to vote without being required to register shall be deemed to have accrued while he was still in such active service and the person shall be entitled to vote in said election, even though not then registered.

Before allowing any person to vote pursuant to this section, such person shall be required to execute and file with the officers of election an affidavit, subscribed and sworn to before an officer of election, substantially as follows:

“I do swear (or affirm) that I am now and have been a citizen and resident of the Commonwealth since the _____ day of _____ 19___, and am a resident of the _____ (city or county) of _____ (name of city or county) residing at _____ (street and number or place of residence therein) and was discharged from active service in the armed forces of the United States on the _____ day of _____, 19___; that I am twenty-one years of age; and that by exercising the privilege of voting I acknowledge and accept all of the responsibilities and obligations of full citizenship of the Commonwealth. The name or number of my voting precinct is _____ (if known, so state).

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

Officer of Election”

The affidavit shall be returned to the clerk’s office of the court of record wherein deeds are recorded with the ballots and shall be preserved by the said clerk as a public record.

Source: 24-23.3 & 23.4

Comment: Sections combined. No substantive change.

Note: See constitutional note to 24.1-127.

§ 24.1-129. How Ballot Marked.—The qualified voter shall then take the official ballot and retire to the voting booth; provided that a person with a physical disability rendering it unduly burdensome for him to enter the polling place may be handed a ballot outside the polling place but within one hundred feet thereof by one of the officers and in his presence but in a secret manner, mark and return the same to such officer who shall proceed as provided in § 24.1-231. He shall then mark immediately preceding the name of each candidate he wishes to vote for a check (✓) or a cross (× or +) mark or a line (—) in the square provided for such purpose, leaving the square preceding the name of each candidate he does not wish to vote for unmarked.

At all elections except primary elections it shall be lawful for any voter to place upon the official ballot in his own handwriting the name of any person and to vote for such other person for any office for which he may desire to vote and mark the same by a check (✓) or cross (× or +) mark or a line (—) immediately preceding the name inserted. No ballot with a name or names placed thereon not in conformance herewith shall be counted for such person.

Source: 24-245, 252

Comment: No substantive change.

§ 24.1-130. Defacing Ballots Accidentally.—Should any ballot be unintentionally or accidentally defaced, or in any way rendered unfit for voting by such voter, he shall deliver such defaced ballot to the officer of election and receive another upon taking an oath that the defacement of the ballot first delivered to him was not done for the purpose of defacing such official ballot. Any person swearing falsely to such fact shall be deemed guilty of perjury.

Source: 24-238

Comment: No substantive change.

§ 24.1-131. Qualified Voter Folds Ballot and Hands Same to Officers Who Deposit it Unopened in Box.—The qualified voter shall fold the ballot with the names of the candidates on the inside and hand the same to the appropriate officer of the election, who shall place the same in the ballot box without any inspection further than to assure himself that only a single ballot has been tendered and that the ballot is a genuine ballot, for which latter purpose he may, without looking at the printed inside of the ballot, inspect the official seal upon the back thereof.

Source: 24-247

Comment: No substantive change.

§ 24.1-132. Officers to Assist Certain Voters—Any qualified voter who is physically or educationally unable to prepare his ballot without aid, may, if he so requests, be aided in the preparation of his ballot by one of the officers of election designated by himself. The officer of election so designated shall assist the qualified voter in the preparation of his ballot in accordance with his instructions, but the officer shall not enter the booth

with the voter unless requested by him, and shall not in any manner divulge or indicate, by signs or otherwise, the name or names of the person or persons for whom any voter shall vote. For a willful violation of any of the provisions of this section, the person so violating shall be deemed guilty of a misdemeanor and be confined in jail not less than one nor more than twelve months.

Source: 24-251

Comment: Changes made in 1969 Special Session were (1) add "or educationally" unable to prepare ballot, and (2) make aid to person available only from Judge of Election. These are shown here. Only other changes proposed are to remove grandfather clause and make minor changes in terminology.

§ 24.1-133. Who May Challenge.—Any qualified voter may, and it shall be the duty of the officer of election, to challenge the voter of any person who may be known or suspected not to be a duly qualified voter.

When any person is so challenged, an officer shall explain to him the qualifications of a voter, and may examine him as to the same; and if the person insists that he is qualified, and the challenge is not withdrawn, one of the officers shall tender to him the following oath: "You do solemnly swear (or affirm) that you are a citizen of the United States, that you are twenty-one years old, that you have resided in this Commonwealth for the period specified by the Constitution, and that you are, according to the best of your knowledge, information and belief, not disqualified from voting by the Constitution or laws of this Commonwealth; that your full name is (here insert the name given); that in such name you were duly registered as a voter of this precinct; that you are now or within the past thirty days have been an actual resident of the same; that you are the identical person you represent yourself to be; and that you have not voted in this election at this or any voting place. So help you God." If he refuses to take such oath his vote shall be rejected; if, however, he does take it, his vote shall be received. And the officers of election are hereby authorized to administer the necessary oaths or affirmations to all witnesses brought before them to testify as to the qualifications of any person offering to vote. When the vote of any person shall be received, after having taken the oath prescribed in this section, it shall be the duty of the officers of election to write on the poll books, at the end of the name of such person, the word "sworn".

The completion and delivery of an application for an absentee ballot shall be construed to be an offer by the applicant to vote in the election.

Source: 24-253, 254, 325

Comment: § 24-254 (2nd paragraph here) is rewritten to include the oath in both the old and proposed Constitutions. The provisions that the officer of election has the absolute right to refuse to allow a person to vote even after he has taken the oath has been removed.

The last paragraph has been added and comes from the absentee ballot chapter.

§ 24.1-134. State Board to Send Secretary Duplicate Books on Lists.
The State Board of Elections shall transmit to the respective secretaries of the electoral boards duplicate poll books for each election district in

their respective counties or cities, of sufficient size to contain the full names and residence addresses of all the voters therein, which book shall be uniform throughout the Commonwealth.

Source: 24-256

Comment: This puts duty on state board to furnish poll books—makes poll books be uniform and includes “address” in list.

§ 24.1-135. Form of Poll Books.—The following shall be the form of poll books to be kept by the officers of election:

Oath to be administered to all officers of election:

“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. So help me God.”

As given by Registrar or Secretary of Electoral Board to _____, Election Officer.

* * * * *

For the election held in the _____ Ward, _____ Precinct, City and/or County of _____, Virginia, the following election officials were duly sworn (or affirmed) as the law directs prior to their entering on the duties of their respective offices:

DATED: _____, 19_____.

The following voters, having been found to be qualified to vote, exercised their franchise and voted:

(and succeeding pages left blank)

* * * * *

INSIDE BACK PAGE

The tabulation for each candidate entered in this election is as follows: [To be expressed both in figures and written out in words to record clearly the total vote for each candidate or referendum issue.]

* * * * *

MIDDLE OF BACK PAGE

SUMMARY OF ELECTION

There were _____ qualified voters voting in person.

There were _____ absentee ballots cast.

There were _____ ballots voided and not counted.

We affirm and swear that the preceding information insofar as this election is true and accurate and constitutes a legal election in accordance with the Election Laws of the Commonwealth of Virginia.

Source: 24-257 (W. D. Baugh)

Comment: The above form comes from recommendations of a certain electoral official.

§ 24.1-136. Officers to Determine Vote After Polls Closed.—As soon as the polls are finally closed the officers of election shall proceed to ascertain the vote given at the election and such ascertainment shall continue without adjournment until the result thereof is declared. The count or determination shall commence by taking out of the box the ballots unopened.

Source: 24-258, 259

Comment: No substantive change. "Canvass" changed to "count or determine". § 24-259 combined.

§ 24.1-137. Representatives of Political Parties to be Present.—The ballots shall not be taken from the box in secret, but shall be in the presence of not more than two representatives from each political party represented in the election and a representative from each independent candidate or primary candidate, if such representatives request the officers of election to allow them to be present when the ballots are taken from the box, and such representatives shall be entitled to be present and witness the count of the ballots and the making up of the returns as hereinafter provided.

Each representative shall have and present to the officers of election a written statement signed by his respective party chairman for the jurisdiction in which the election is held or by the respective independent candidate designating that person to be a representative of that party or candidate for the purposes of this section or by the candidate in a primary that he is a representative of the candidate.

In case such representatives, or any of them, do not request to be present, the officers shall notify the bystanders if any and select from them as many to come in as with the representatives of the political parties or independent candidate or primary candidate present shall make the number of four, and in their presence shall open the ballot boxes and ascertain and count the votes.

Source: 24-260, 261

Comment: Third paragraph requires representative of party be so designated in writing by the party chairman and allows independents to have representatives at counting of ballots.

§ 24.1-138. Detection and Setting Aside of Double Ballots.—The officers of election shall at once proceed to examine and count the ballots to ascertain if any double ballots have been cast, and whether the number of ballots corresponds with the number of names on the poll books; and 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 qualified voters on the poll books, 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.

Source: 24-262

Comment: The changes will require that double ballots be retained and set aside and not counted, instead of destroyed.

§ 24.1-139. Procedure When Ballots Exceed Names on Poll Books.—If the ballots in the box are found to exceed the number of names on the poll books, all ballots shall be replaced in the ballot box, and after the same shall be well shaken, one of the officers of election, being blindfolded, shall draw therefrom a sufficient number of ballots to reduce the same to a number equal to the number of names of electors on the poll books. Such ballots shall be set aside and not counted.

Source: 24-263

Comment: The changes will require that pulled ballots be set aside and not counted, instead of being destroyed.

§ 24.1-140. 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 a less number of names than is authorized to be inserted therein.

Source: 24-266

Comment: No change.

§ 24.1-141. Signing and Attesting Books.—The number of ballots being made to agree with the number of names on the poll books in the manner provided in the preceding section, the books shall be signed by the officers; and the number of names thereon shall be set down in words and figures at the foot of the list of qualified voters on the poll books and over the signatures of the officers in the manner and form prescribed by § 24.1-235. Whenever the number of ballots is reduced by fraudulent or void ballots below the number of names of qualified voters on the poll books, the cause of such reduction shall be stated at the foot of the list of qualified voters on the poll books before the same are signed by the officers.

Source: 24-264

Comment: No substantive change.

§ 24.1-142. How Votes Counted and Returns Made.—After the poll books are signed, the officers shall, in the presence of such persons as shall be present under § 24.1-237, proceed to ascertain the number of votes cast for each person voted for; and the ballots shall be distinctly read, and as soon as read and counted shall be strung by one of the officers on a string, or marked with a stamp “counted” and placed in an envelope labeled “counted ballots”, and an officer shall set down on the poll books, next after the certificate of the officers at the foot of the list of electors as the returns of the election, the name of every person voted for, written in full length, the office for which such person received such votes, and the number of votes he received, the number being expressed in figures and also at full length in writing, in accordance with the form prescribed in § 24.1-235, which returns when so made out, shall be signed and attested as provided in that section, but no person other than the officers of the election shall handle the ballots.

No ballot except an official ballot especially prepared as provided for in this title shall be counted for any person. In the event that any unofficial ballot is found among the official ballots, such unofficial ballot shall be put aside, not counted and appropriately noted in the poll book.

Source: 24-265, 246

Comment: Only substantive change is to allow ballots, in lieu of stringing, to be stamped and placed in an envelope properly marked.

§ 24.1-143. Poll Books and Ballots to be Sealed and Delivered to Clerk.—After ascertaining the votes in the manner aforesaid, the officers, before they adjourn, shall put under cover the poll books, seal the same, and direct them to the clerk of the court of record wherein deeds are recorded of the county or city in which the election is held; and the poll books thus sealed and directed, together with the used ballots strung or counted ballot envelope aforesaid enclosed and sealed, and the unused, defaced, spoiled and set aside ballots properly accounted for, shall be conveyed by one of the officers to be determined by lot, if they cannot otherwise agree, to the clerk of court to whom they are directed by noon on the day following the election, there to remain for the use of the persons who may be lawfully entitled to inspect the same.

Source: 24-267, 232

Comment: Section now provides that unused, defaced, spoiled and set aside ballots be returned to the Clerk. The deadline for return of ballots has been advanced to Noon the day after the election.

§ 24.1-144. Clerk to Keep Ballots for Twelve Months; Destruction.—The clerk to whom the ballots are delivered as aforesaid shall, without breaking the seal, deposit them in a secure place in his office, where they shall be safely kept for twelve months; and he shall not allow the same to be inspected unless in cases of contested elections or unless they become necessary to be used in evidence and then only on the order of the proper court or officer.

Whenever the poll books and ballots required by law to be returned to the clerk's offices in this Commonwealth shall have remained in the offices for as much as one year, it shall be lawful, if no election contest or other proceeding be pending in which such books and ballots may be needed as evidence, for the Clerk of such offices to destroy such books and ballots.

Source: 24-268, 270

Comment: No substantive change.

§ 24.1-145. Clerk to Send for Books and Ballots on Failure of Officers to Return.—If from any cause the officers of election shall fail to make return, as provided by § 24.1-143 within the time limited by § 24.1-146 for the electoral board to meet and open the returns, it shall be the duty of the clerk to whose office such returns ought to have been made to dispatch a law enforcement officer to obtain such returns, who shall be subject to the same penalties and entitled to the same compensation as an officer of election for such service.

Source: 24-269

Comment: No substantive change.

§ 24.1-146. Electoral Board to Meet and Open Returns and Ascertain Result.—Each electoral board shall meet at the clerk's office of the county or city for which they are appointed at or before noon of the second day,

Sunday excepted, after any election held therein, and proceed to open the several returns which shall have been made at that office.

The board shall ascertain from the returns the persons who have received the greatest number of votes in the county or city for the several offices to be filled at the election. The result as so ascertained shall be reduced to writing and signed by a majority of the board and attested by the Secretary and shall be annexed to the abstract of votes cast at such election, as provided for in § 24.1-150.

Source: 24-271, 272

Comment: The responsibility for ascertaining the result has been removed from the commissioners of election and this responsibility placed on the electoral board.

§ 24.1-147. Board to Correct Irregularities in Returns of Officers of Election.—If it shall appear to any electoral board, in determining the persons who have received the greatest number of votes for the several offices voted for in such election, that irregularities or informalities occur in the returns of the officers of election which can be cured by amending or correcting the same, it shall be the duty of the board immediately to summon such officers, or such of them as may be requisite, to appear before the board on some day not exceeding three days from the date of the summons, for the purpose of amending such 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.

Source: 24-275

Comment: Consistent with previous section; changes to the electoral board the responsibility of the commissioners of election.

§ 24.1-148. 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 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.

Source: 24-276

Comment: Proviso has been added which makes it clear that this section is subject to recounts.

§ 24.1-149. 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.

Provided, however, that any person falling within this section may utilize the provisions of §§ 24.1-248 and 24.1-249 concerning recount.

Source: 24-277, 290

Comment: Only change is to delete portion of old section relative to recounts and leave this up to law on recounts since a tie is obviously a case of a 1% or less variance in votes.

§ 24.1-150. Abstracts of Votes to be Made by Secretary and Forwarded to State Board of Elections.—So soon as the electoral board shall determine the persons who have received the highest number of votes for any office, the secretary shall make out abstracts of the votes in the following manner: First, for Governor and Lieutenant Governor on one sheet; second, for Attorney General on one sheet; third, for member or members of the General Assembly on one sheet; fourth, for a representative or representatives in the Congress of the United States on one sheet; fifth, for electors of President and Vice President of the United States on one sheet; sixth, for county officers on one sheet; seventh, for district officers on one sheet; eighth, for city officers on one sheet.

The abstracts, being certified and signed by the electoral board and attested by the secretary, shall be deposited in the office of the latter, and certified copies thereof, numbered one, two, three, four, five, six, seven and eight, when such officers have been voted for at the election, under the official seal of the secretary, shall be placed in separate envelopes, endorsed, and directed to the State Board of Elections, and forwarded immediately to it by certified mail or delivered by hand.

The secretary shall endorse on the back of each envelope in which the certified copies are enclosed: "Copy of the abstracts of votes cast for Governor, and so forth (as the case may be), cast at the general election in _____ County (or city), in _____, nineteen hundred and _____."

Source: 24-278, 279, 280

Comment: No substantive change except to, as before, give the duties of the commissioners of election to the electoral board.

§ 24.1-151. Secretary to Make Out and Deliver Certificate of Election.—The secretary shall immediately make out, in pursuance of the determination of the electoral board, a certificate of election for each of the persons having the highest number of votes for any county, city, town, or district office, or, in case of a tie, who have been decided by lot to be elected, and deliver the same to the person elected by certified mail.

Source: 24-282

Comment: No substantive change except to delete penalty and cover it in Chapter 10.

§ 24.1-152. State Board of Elections to Open and Record Returns.—The State Board of Elections upon receipt of the certified abstracts of the votes given in the several counties and cities directed to be sent to it, shall proceed to open the same, except the abstract of votes for Governor and Lieutenant Governor, and the Attorney General, and shall record them in a suitable book to be kept by it for the purpose, and file and carefully preserve in its office such abstracts and the original envelopes in which they were enclosed.

Source: 24-283

Comment: No change.

§ 24.1-153. If Abstracts Not Forwarded, Messenger to be Sent for Them.—If from any county or city no such abstract of votes shall have been received by the State Board of Elections within five days next after any election, it shall dispatch a law enforcement officer to obtain a copy of the same from the official having charge thereof; and such official shall immediately, on demand of such officer make out and deliver to him the copy required, which copy of the abstract of votes the officer shall deliver to the State Board of Elections without delay, to be recorded as aforesaid.

Source: 24-284

Comment: This section as proposed cuts number of days for official count from 12 to 5 days since methods of transportation make this more reasonable.

§ 24.1-154. State Board of Elections to Meet and Make Statement as to Number of Votes.—For the purpose of ascertaining the result of elections, the State Board of Elections shall meet at its office on the third Monday in November, when it shall, upon the certified abstracts on file in its office, proceed to examine and make statements of the whole number of votes given at any such election for members of the General Assembly, members of the United States Congress and electors of President and Vice President of the United States, or for so many of such officers as have been voted for at such election.

The statement shall show the names of persons for whom such votes have been given for either of the offices and the whole number given to each, distinguishing the several districts, cities and counties in which they were given. They shall certify such statements to be correct and subscribe their names thereto, and they shall thereupon determine what persons have been by the greatest number of votes duly elected to such offices, or either of them, and shall endorse and subscribe on such statements a certificate of such determination, and shall record in a suitable book to be kept by it in its office for that purpose each such certified statement and determination.

Source: 24-285, 286

Comment: Proposed section requires that the canvass occur on the third Monday in November instead of the 4th Monday.

§ 24.1-155. Certificates of Election.—The State Board of Elections shall without delay make out and transmit to each of the persons thereby 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 General Assembly or Congress of the United States it shall also forward a certificate of election of such member to the clerk of each such body, respectively.

In cases of special elections to fill vacancies held at any other time than that fixed for general elections, the State Board of Elections shall meet at its office on the day after the returns of such elections are received for the purpose of ascertaining the result of such special elections in the manner hereinbefore set forth. But if the abstracts, or any of them, shall not be received within five days from the election, the Board shall meet and adjourn from time to time until the abstracts shall be received and the result of such election determined.

Source: 24-287, 289

Comment: No substantive change.

§ 24.1-156 (RESERVED)

§ 24.1-157 (RESERVED)

Article 2.

Presidential Elections.

§ 24.1-158. State Board of Elections to be Furnished Names of Electors Selected by Political Parties.—In elections for President and Vice President of the United States the names of electors selected by the different political parties at their respective Conventions held for that purpose, together with the name of the political party and the names of the candidates for President and Vice President for whom they are expected to vote in the Electoral College, shall be furnished to the State Board of Elections at least by noon of the sixtieth day before any election for the electors of President and Vice President by the chairman or secretary of said party. The State Board of Elections shall also be furnished, if request therefor is made, with satisfactory evidence that any person undertaking to so act on behalf of any political party is, in fact, duly and properly authorized so to do.

Source: 24-290.1

Comment: The only change is to specify that information concerning Presidential electors will come from the Chairman or Secretary of the respective political party.

§ 24.1-159. How Other Groups May Submit Names of Electors.—Any group of qualified voters of not less than the number equal to one percentum of the qualified voters in the Commonwealth as of first day of January of that year, not constituting a political party as defined in § 24.1-1, 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 so requesting with the State Board of Elections not later than noon of the sixtieth day before said election. Said petition, which shall be signed by said voters, contain their residence addresses, the signatures to which shall be witnessed by a qualified voter whose affidavit to that effect is attached to said petition, shall set forth the names of the electors selected by such voters, the party name under which they desire the electors so selected to be listed on the ballot, and the names of the candidates for President and Vice President for whom such electors are expected to vote in the Electoral College. In order to utilize a selected party name on the ballot, such group shall have had a State Central Committee and a duly designated chairman in existence and holding office for at least six months prior to filing the petition. Such party name shall not be identical with or substantially similar to the name of any political party qualifying under § 24.1-1 and then in existence.

In the event that a group of qualified voters meets the requirements set forth herein except that they cannot utilize a party name, the electors selected and the candidates for President and Vice President shall be identified as "Independent".

Source: 24-290.3

Comment: This section has been rewritten to require 1% of qualified voters on petition in order to place Presidential candidates on ballot for those other than political parties meeting definition requirements of § 24.1-1. At present a section with one thousand voters meets all requirements. The requirements of

use of a political party have been strengthened to provide that only in the case of some true party will a party name be used.

§ 24.1-160. How Ballots to be Prepared.—It shall thereupon be the duty of the State Board of Elections immediately to so notify the secretary of the electoral board of each county and city of the Commonwealth, and to certify to each said secretary the form of official ballot which shall be uniform throughout the Commonwealth. It shall then become the duty of the electoral board of each of the several counties and cities within the Commonwealth, at least forty days preceding such election, to cause to be printed on the uniform official ballot provided for in this title, the name of each said political party and the party name, if any, specified by the persons naming electors by petition, and underneath or below the party name in parenthesis 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 said candidates for electors are expected to vote in the Electoral College, after which the names of the electors nominated by said political parties or groups or petitioners shall follow; and to print a square preceding the name of each such party and party designation.

Source: 24-290.4

Comment: No substantive change.

§ 24.1-161. How ballots to be marked.—The qualified voters at said election shall designate their preference for candidates for electors of President and Vice President by marking, as provided in § 24.1-129, the square preceding the name of the political party or party name of his choice, and the ballots so marked shall be counted as if squares preceding the names of the individual electors nominated or selected by such political parties or the groups of petitioners had been so marked.

Source: 24-290.5

Comment: No change.

§ 24.1-162. How Electors Expected to Vote.—The electors selected by the State conventions by any political party as defined in § 24.1-1 shall be expected to vote in the Electoral College for the nominees of any national convention to which the said State convention elects delegates.

The electors named in any petition of qualified voters as provided in § 24.1-159 shall be expected to vote in the Electoral College for President and for Vice President for such persons as may be named in the said petition.

Source: 24-290.6

Comment: Provision allowing party to hold convention and instruct electors not to vote for party nominee has been dropped. No other substantive change has been made.

Article 3.

Special Elections.

§ 24.1-163. Writ When Special Election Ordered.—Whenever a special election is ordered by the Governor, Speaker of the House, or President of the Senate, it shall be his duty to issue a writ of election,

designating the office to be filled at such election and the time when such election is to be held, and to transmit the same to the secretary of the electoral board of the county or city in which such election is to be held. The secretary shall publish a copy thereof at not less than ten public places or publish one in a newspaper of general circulation at least ten days before such election.

Whenever a special election is ordered to fill a vacancy otherwise than under the preceding paragraph, it shall be the duty of the officer ordering such election to issue his writ of election at least twenty days before such election directed to the secretary of the electoral board of the county, city or town in which the election is to be held, designating therein the office to be filled and the time and place of holding the same; upon receipt of which such officer shall proceed to cause public notice to be given of such election in the same manner as is required in the preceding paragraph.

Source: 24-138, 139

Comment: Sections combined. Writ will be directed to the secretary of the electoral board instead of the Clerk of the Court.

§ 24.1-164. How Special Elections Superintended and Determined.—All special elections, and all elections to fill vacancies in office, shall be superintended and held, notice thereof given, 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 so far as may be otherwise provided, and except also that in case where there is a vacancy in the office of any officer who has some duty to perform in such election, the duties of such officer shall be performed by such other officer or person as shall be appointed for that purpose. The order of the names appearing on the ballot shall be determined as provided for primary elections in § 24.1-188.

Source: 24-140

Comment: No substantive change.

§ 24.1-165. How Certain Special Elections and Referendums May Be Called and Held, and Results Ascertained and Certified.—Notwithstanding any provision of any law, or of the charter of any city or town, to the contrary, whenever any question or proposition is to be submitted to the electors of any county, city or town, or any referendum is ordered, the election on such question, proposition or referendum whether it be at a regular or special election shall be held as provided herein.

A copy of any court order calling a special election shall be sent to the State Board of Elections as soon as practicable 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 election districts or precincts, and at the time for such regular election, or on the day fixed for such special election, the regular election officers shall open a poll and take the sense of the qualified voters of the county, city, town, ward, district, zone, or other local subdivision, as the case may be, on the question, proposition or referendum so submitted to such electors. All such elections shall be held and conducted in the manner prescribed by law for other elections, provided, however, that the ballots for use at any such election shall be printed to read as follows, either:

“Questions (here state briefly the question or proposition submitted to the electors)

[] For
[] Against”

or

“Questions (here state briefly the question or proposition submitted to the electors)

[] Yes
[] No”

Whichever is designated by the State Board of Elections as more appropriate for the question.

The squares to be printed on such ballots shall not be less than one-quarter nor more than one-half inch in size, and the voting shall be by a positive affirmative method, which shall be by each elector voting at any such election, placing a check (√) mark, or a cross (× or +) mark, or a line (—) in the square or squares immediately before the appropriate word or words, indicating how he desires to vote on the question or proposition so submitted.

The ballots shall be counted and returns made and canvassed as in other elections, and the results certified by the Secretary of the appropriate electoral board to the court or judge or other authority calling or authorizing such election, as the case may be, who shall make such order or certification as may be proper to accomplish the purpose of such election or referendum.

Source: 24-141

Comment: Changes add alternative form to question, as may be designated more appropriate, and clear up last paragraph on who certifies returns.

Article 4.

Candidates for Office.

§ 24.1-166. **Candidates; Notice Required of Non-party Candidates and Party Nominees Other Than by Primary.**—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 notify the State Board of Elections, in writing, attested by two witnesses, of his intention, designating the office for which he is a candidate and such notice shall be delivered to the Board not later than the time fixed for the closing of the polls on the Tuesday after the second Monday in September, if it be a general election in November, or the first Tuesday in March, if it be a general election in May, and at least thirty days before the election if it be a special election, or within five days after the issuance 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. The written notice shall be signed by the candidate, but if he be 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 and in the same manner.

On receipt of the notices required hereby the State Board of Elections shall notify the respective secretary of each electoral board of the election district of the candidacy of each of such persons, which notices shall be forwarded by the State Board of Elections immediately after the expiration of the period during which candidates may give notice of their candidacy as prescribed hereby.

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 give notice not later than the time fixed for the closing of the polls on the first Tuesday after the second Monday in September before the election if it be a general election held in November, and at least sixty days before a general election held in May, and at least thirty days before the election if it be a special election, or within five days after the issuance 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, to the Secretary of the Electoral Board of the counties or cities whose electors vote for such office, which notice shall be in all respects as that required by this section to be given to the State Board of Elections.

Nominations, other than by primary, by political parties for candidates for any office, shall be made and completed in the manner provided by law at or before the time fixed for the closing of the polls on the Tuesday after the second Monday in September next preceding the election for such offices in the case of a general election in November, or in the case of a general election in May, on the first Tuesday in March, and the chairman of each such party shall certify the names of its candidates as required by § 24.1-134. However, in no event shall any party so nominate by any means other than direct primary more than thirty days prior to the Tuesday after the second Monday in such September, in the case of a general election in November, or thirty days prior to the first Tuesday in such March, in the case of a general election in May.

Source: 24-130, 131, 131.1, 135 (see 24-345.3)

Comment: Combines sections and now will cover all candidates for office, party and independent not nominated by primary. Section now changes filing time to close of polls on primary day for any candidate not seeking party nomination in a primary. Section changes primary for November general election to the Tuesday following the second Monday in September. Last sentence of last paragraph prohibits a party nominating by convention more than 30 days prior to primary.

§ 24.1-167. Persons Entitled to Have Names Printed on Ballots.—Only a person fulfilling the requirements of a candidate shall have his name printed on the ballots provided for the election.

Source: 24-132 (see 24-345.3)

Comment: Section rewritten and shortened.

§ 24.1-168. When Petition of Qualified Voters Required.—The name of any candidate for any office other than a party nominee nominated by such method as his political party has chosen for nominating candidates, shall not be printed upon any official ballots provided for the election, unless he shall file along with his notice of candidacy a petition therefor signed by a number of qualified voters equal to at least one percentum of the number of voters registered within the election district as of the 1st day of January of the year preceding the year in which such petition must

be filed, and listing the residence address of each such qualified voter, each signature to which has been witnessed by a person who is himself a qualified voter for the election district in which he is circulating the petition, and whose affidavit to that effect is attached to the petition.

Source: 24-133

Comment: Changes add provision for requiring 1% of voters on petition instead of present specific number and shorten section to conform with corresponding section in primary law. The number of voters is based on January 1st of the year preceding the year in which the petition is filed. (See comments to 24.1-185)

§ 24.1-169. Party Candidates to be Certified to State Election Board; Failure to Certify.—The name of any candidate for office who has been nominated by his party by primary shall be certified by the Chairman of the party to the State Board of Elections and to the secretary or secretaries of the electoral boards of such cities and counties in which the name of such candidate shall appear on the ballot not later than ten days after the Tuesday after the second Monday in September, or in the case of a general election in May, not later than ten days after the first Tuesday in March, and no further notice of candidacy or petition shall be required; provided that should the party chairman fail to make such certification, the State Board of Elections 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.

Source: 24-134 and 24-345.3

Comment: Section changed to conform to 24-345.3 of the old War Voters Act. Dropped provision allowing party to nominate by declaration or convention within 10 days and make them comply with (24.1-160). Last portion of section rewritten to be positive and require State Board to treat primary nominee as candidate despite failure of party chairman to certify.

Article 5.

Primary Elections.

§ 24.1-170. Primaries to be Conducted in Accordance with Article.—A primary when held shall be conducted in all respects under the provisions of this Article.

Source: 24-347

Comment: No change.

§ 24.1-171. To What Nominations This Chapter Applies.—This Article shall apply to the nomination of candidates for such offices as shall be nominated by a direct primary and to no other nominations. The right to provide that a party nomination shall be made by a direct primary or by some other method shall be determined as follows: For a member of the Senate in the Congress of the United States, or for any Commonwealth office, by the duly constituted authorities of any political party for the Commonwealth at large; for any district office or member of the House of Representatives of the United States, member of the General Assembly, or for any city, town, or county office, by the duly constituted authorities

of any political party of the district, county, city, town, or other political subdivision of the Commonwealth in which such office is to be filled.

This Article shall not apply to the nominations of presidential electors, nor to the nominations of candidates to fill vacancies unless the candidates for nomination to fill vacancies are to be voted for on the date set by this chapter for regular primaries.

Source: 24-348, 361

Comment: No change except to combine sections.

§ 24.1-172. Powers of Parties in General, Nominations, Other Than by Primary, Limited.—Each party shall have the power to make its own rules and regulations, call conventions to proclaim a platform or ratify a nomination, or for any other purpose, and perform all functions inherent in such organizations.

Each party shall have the power to provide for the nomination of its candidates, and the nomination and election of its candidates for office in case of any vacancy, and the nomination and election of its State, county or city committee.

Nothing in this Article shall be construed to limit or circumscribe the power of any political party to prescribe the rules and regulations for its own government, and to determine its own methods of making nominations for public office.

A party selecting a nominee for any office by any method other than by direct primary, shall only do so within the thirty days, and no more, immediately preceding the regular primary date established for purposes of nominating candidates for the office in question. This limitation shall, however, have no effect on nominations either for special elections or pursuant to § 24.1-197.

Source: 24-363, 364, 365

Comment: The last paragraph is new. This paragraph limits nomination by methods other than primaries to 30 days before regular primary date. This limitation will place all party nominees in the same relative position before elections whether nominated by primary, convention, endorsement or other means.

§ 24.1-173. Candidates not to be nominated by convention.—No party which has adopted the plan of making nominations for office by primary, shall have the power to nominate by a convention any candidate to be voted for at any particular primary.

Source: 24-366

Comment: No change.

§ 24.1-174. Time Primaries to be Held.—Primaries for the nomination of candidates for offices to be voted on at the general election in November shall be held on the Tuesday after the second Monday in September next preceding such election. Primaries for the nomination of candidates for offices to be voted on at the general election in May shall be held on the first Tuesday in March next preceding such election.

Source: 24-349

Comment: Changes primary for November General Election to September and establishes May for the General Election for cities

with that primary in March. References to second primaries have been deleted.

§ 24.1-175. Primary Not to be Held When Only One Candidate Declares.—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 such declaration shall be declared the nominee of such party for the office for which he has announced his candidacy and his name shall not be printed on the ballot for the primary. No primary shall be held for the nomination of candidates for office when the authorities of a political party, acting within the discretion vested in them by this chapter, shall require the nomination to be made otherwise.

Source: 24-350

Comment: Only change is to make it definite that in a case where there is only one candidate for an office that he can't have his name printed on a primary ballot since he is automatically the party nominee.

§ 24.1-176. Party to Furnish Names of Chairmen and Notify State Board of Adoption of Direct Primary.—In the month of January each year, each political party within the Commonwealth shall furnish to the State Board of Elections the names and addresses of its state, county and city party chairmen.

At least one hundred and twenty days prior to the date for a primary the State Board of Elections shall make inquiry of each state chairman and each county and city chairman as to whether a direct primary has been adopted. The Board shall also advise each such chairman that notification of the adoption of a direct primary is required and must be filed with the Board not more than one hundred and ten days and not less than ninety days before the date set for the primaries.

Source: 24-351

Comment: Rewritten to place burden on state board to inquire of party chairmen as to whether they have adopted a direct primary. State Board must inquire 120 days before date and chairman of party must notify of adoption between 90 and 110 days before primary.

§ 24.1-177. State Board to Order Election.—The State Board of Elections shall after receipt of the notice order the holding of a primary election in any county, city or other district of the Commonwealth in which it is so notified that a primary is intended to be held. Such notice shall be sent to the secretary of the electoral board. Each such secretary shall forthwith post a copy of such notice at some public place in each election district, at or near the usual voting place in the district.

Source: 24-352

Comment: No substantive change.

§ 24.1-178. 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.

Source: 24-356

Comment: By reason of this section now a detail restatement of the

various applicable election laws which apply to primaries is unnecessary and the general election laws will be applicable.

§ 24.1-179. 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 such office and his name shall be printed on the official ballots used in the election for which the primary was held.

Source: 24-359

Comment: The change in this section is to delete all references to the requirement of a runoff.

§ 24.1-180. When Party May Use Electoral Machinery Without Charge; Limit on Fees Required of Committee Candidates.—When a political party holds an election to select the members of such party committee and such election is held at the same time and in the same places as a primary election, no fee or charge shall be made or required of such political party for making use of the electoral machinery.

Source: 24-364.1

Comment: Old reference to definition of political party deleted since it is contained in definition section.

§ 24.1-181. For What Primaries County and City Treasurers Required to Pay Expenses.—Nothing in this Article shall be construed to require the county and city treasurers to pay expenses of more than one primary held by any one party for one election, but if any of the subordinate party committees call a primary at a date other than the date for the general primary, then the expenses of the primary called by such subordinate party committee shall be paid by the party committee so calling it.

Source: 24-397

Comment: Only changes are, in case of non-regular primaries, to require the party committee calling such primary to pay expenses, and delete references to runoff. The reference to subordinate committees means district, county, city, etc., committees.

§ 24.1-182. Who May Vote.—All persons qualified to vote at the election for which the primary is held, and not disqualified by reasons of other requirements in the law of the party to which he belongs, may vote at the primary; except that no person shall vote for the candidates of more than one party.

Source: 24-367

Comment: Section now deletes references to loyalty oath and leaves this matter up to the party. A 1969 court case during the Democratic Primary relates to this change.

§ 24.1-183. Qualification of Candidates.—The name of a candidate shall not be printed upon any official ballot used at any primary unless such person is legally qualified to hold the office for which he is a candidate, and unless he is eligible to vote in the primary in which he seeks to be a candidate.

Source: 24-369

Comment: No change.

§ 24.1-184. Declaration of Candidacy.—The name of a candidate for any office shall not be printed on any official ballot used at a primary unless, not more than seventy-five nor less than sixty days before the primary, he shall make and file a written declaration of candidacy, and has complied with the rules and regulations of the proper committee of his party.

The declaration required by this section shall be in substantially the following form:

“I,, of the county (or town or city) of, a member of the party, declare myself to be a candidate for nomination to the office of to be made at the primary to be held on the day of If I am defeated in the primary I hereby direct and irrevocably authorize the election officials charged with the duty of preparing the ballots to be used in the succeeding general election not to print my name on said ballots.”

The declaration shall be acknowledged before some officer who has the authority to take the acknowledgements to deeds, or attested by two persons who can write, signing as witnesses.

Source: 24-370, 371, 372

Comment: Provisions change filing for primary to between 75 and 60 days for all such elections. This provision has been added since the order on the ballot is tied in primaries to time of filing. This restriction stops someone from filing for primary years before election just to be first on the ballot.

§ 24.1-185. Petition to Accompany Declaration.—The name of a candidate for any office shall not be printed upon any official ballot used at any primary unless he shall file with his declaration of candidacy a petition therefor signed by a number of qualified voters equal to at least one percentum of the number of voters registered within the election district as of the first day of January of the year preceding the year in which such petition must be filed. Each signature to the petition shall have been witnessed by a person who is a qualified voter within the area for which signatures being obtained and whose affidavit to that effect shall be attached to the petition, and alongside each signature shall be the residence address of such person.

Source: 24-373

Comment: Rewritten to require 1% of registered voters on petition as in the case of all other candidates and to require person passing the petition to be a qualified voter. The number of voters on which to determine the 1% is based on January 1st of the year preceding the year in which the petition must be filed. This one year lag is to avoid questions as to the number and problems obvious due a March municipal primary of special elections called in January or February.

§ 24.1-186. Filing Declaration of Candidacy With Chairman.—Candidates for nomination shall file their declaration with the chairman or chairmen of the several committees of the respective parties.

Source: 24-374

Comment: No change.

§ 24.1-187. Chairman to Furnish Electoral Boards and State Election Board with Names of Candidates.—It shall be the duty of such chairman or chairmen to furnish to the State Board of Elections and to the electoral boards charged with the duty of preparing and printing the primary ballots the names of the candidates to be printed thereon. Such chairman shall also certify the order and date and time of filing for purposes of printing the ballots as prescribed in § 24.1-188. Each such chairman shall comply with the provision of this section not less than fifty-five days before the primary.

Source: 24-375

Comment: The clause allowing the State Board to forgive a party for not filing names has been deleted. Requirement that party certify the order of filing for purposes of ballot has been added. The party chairman shall certify not less than 55 days before the election.

§ 24.1-188. 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 across the top of each official primary ballot shall be printed in plain black type the date of the primary, the name of the political party, and immediately underneath the following words "Primary election ballot." The names of the candidates for various offices shall appear on the ballot in an order determined by the priorities 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 of Elections.

Source: 24-376

Comment: The provision necessary to establish for order of names on ballot to be as per time of filing as candidate has been included. These provisions require that in the event of a simultaneous filing the order shall be determined by lot by the electoral board or the State Board.

§ 24.1-189. Poll Books and Ballot Boxes.—There shall be two poll books 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 immediately under the words the name of the party which uses the same. Each poll book shall bear conspicuously upon its cover the name of the party whose voters are recorded therein, and shall have printed therein the following:

Tally Sheet.

For (name of party) for the _____ precinct in the
the county, (or city) of _____ for primary held on
_____ day of _____ A.D.

The names of candidates for nominations shall be placed on the tally sheets of each political party by the officers of election in the order in which they appear on the primary ballot.

Source: 24-377

Comment: No substantive change.

§ 24.1-190. One Poll Book Delivered to Chairman.—After the vote has been ascertained one poll book shall be delivered by the secretary of the electoral board to the chairman of the city or county committee of the party for which the primary is held. The nominee of the party shall be entitled, at his own expense, to copy the poll book retained by the clerk of court.

Source: 24-379

Comment: Change spells out delivery of one poll book to party by secretary of board and allows a party nominee to have a copy of the poll book at the candidates own expense.

§ 24.1-191. Abstracts of Votes.—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 shall immediately make out abstracts and certificates of the votes cast as provided in § 24.1-150, and certified copies thereof shall be placed in an envelope by the secretary and forwarded by certified mail as follows: For United States Senator and State officers to the State Board of Elections; for members of the House of Representatives of the United States, to the chairman of the congressional district committee; for members of the General Assembly to the chairman or several chairmen, as the case may be, of the county or counties and cities composing the district; and for county and city and district officers, to the chairman of the county or city; and the secretary shall endorse on the back of the envelope in which the certified copies are enclosed: "Copy of the abstract of votes cast in the primary election in _____ county (or city as the case may be) on _____ nineteen hundred and _____."

The chairman or chairmen hereinbefore referred to are the chairman or chairmen of the political party or parties under whose auspices the primary is held.

Source: 24-388

Comment: The section has been shortened and simplified. Substantially the old section contained a paragraph requiring the chairman to publish names of nominees in newspaper which has been deleted as unnecessary.

§ 24.1-192. Returns Canvassed by State Board of Elections; When Nominee Declared.—As soon as possible after receipt of the certified abstract and not later than five days after the day of the election the State Board of Elections shall open and tabulate the returns. Upon the completion of such tabulation the Board shall declare the nominee in manner and form as it does in general elections.

Source: 24-389

Comment: The section proposes that the state board meet five days after primary instead of ten days. All references to the runoff have been deleted.

§ 24.1-193. If Abstracts Not Forwarded, Officer to be Sent for Them.—If from any county or city the abstract of votes shall not have been received by the State Board of Elections within four days after any State primary election, it shall dispatch a law enforcement officer to obtain them as provided in § 24.1-153.

Source: 24-390

Comment: Changed number of days within which abstract of votes must be forwarded from seven to four. This effort to speed up the closing out of matters following the election has been established consistently within the Title.

§ 24.1-194. Procedure to Fill Vacancies Caused by Death, Resignation or Removal.—Whenever, by reason of the death, resignation or removal of the incumbent, a vacancy in any office shall occur less than sixty (60) days before the date fixed by § 24.1-174 for the holding of a primary, but more than thirty days before such date, the properly constituted party authorities may permit the filing of declarations of candidacy for nomination in the primary to such office. Notice of such vacancy and the right to file declarations of candidacy to fill the same shall be advertised by the party committee or committees in at least one newspaper of general circulation within the Commonwealth, if it be an office filled by election by the people at large, and in case of all other offices, in the manner prescribed by the properly constituted party authorities. No such declaration of candidacy shall be filed with the committee or committees until such advertisement is had, nor within fifteen days prior to the date for holding the primary.

Source: 24-362

Comment: No substantive changes.

§ 24.1-195. When nominee by default dies or withdraws prior to primary.—If any person who shall have been nominated as the candidate of a political party for any office in any general election, by reason of the fact that he is the only person who has filed the required notice of and petition for candidacy, dies, or withdraws as such party candidate, at a time which is thirty days or more before the day on which such primary would have been held if two or more candidates had qualified, any person desiring to become a candidate for nomination by such party at such primary who is otherwise qualified may file a notice of and petition for his candidacy with the proper chairman or chairmen of his party committee or committees. Such notice and petition shall comply in every respect, except as to the time of filing same, with the requirements which applied to the qualification as a primary candidate of the nominee who has died or withdrawn. Such notice 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 or chairmen shall promptly certify their names to the appropriate electoral board or boards as having qualified under the provisions of this section. The electoral board or boards having charge of the printing of the official ballots for such primary election shall either (a) cause to be printed thereon the name of every person so certified to it as qualifying as provided in this section, or (b) if the official ballots containing the names of candidates for the party's nomination for another office or other offices have already been printed, they may cause separate ballots to be printed for the office for which two or more persons have qualified pursuant to the provisions of this section and print thereon the names of such persons certified to it as so qualifying. In the event that only one person qualifies as a candidate at any such primary in accordance with the provisions of this section, such person so qualifying shall be deemed to be the primary nominee of his party for such office and his name shall not be printed on any ballot used in such primary.

In the event that the death or withdrawal of candidacy of any such party nominee should occur at a time which is less than thirty days prior

to any such primary, the party's nominee shall not be selected at such primary, and the State Central Committee, or other appropriate State, district, city, or county committee of such party, shall by resolution proclaim the time, place, and manner of nominating its candidate for such office, of which at least thirty days' public notice shall be carried in the press, and such candidate shall be nominated in conformity with the resolution and proclamation of the party committee.

Source: 24-391

Comment: The only change has been to delete provision in 2nd paragraph which allowed a news story to serve a notice of nomination to fill vacancy.

§ 24.1-196. 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 such primary may file a notice of and petition for his candidacy with the proper chairman or chairmen of his party committee or committees. Such notice and petition shall comply in every respect, except as to the time of filing same, with the requirements which applied to the qualification as a primary candidate of the candidate who has died. Such notice 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 appropriate electoral board or boards as having qualified under the provisions of this section. Every electoral board having charge of the printing of official ballots for such primary election shall either (a) cause to be printed thereon the name of every person so qualifying as provided in this section, or (b), if the official ballots have already been printed and there appear thereon the names of candidates for such party's nomination for another office or other offices, and, also, the names of such party's candidates for such office for which new candidates have qualified pursuant to this section, such electoral board may in its discretion cause to be stricken from such ballots already printed the title of the office involved and the names of all candidates for nomination for such office appearing thereon, and cause separate ballots to be printed for such office and place or print thereon the names of those candidates who have theretofore qualified (excluding the decedent), and also the names of those certified to it as having qualified pursuant to the provisions of this section.

Whenever any additional candidate shall qualify pursuant to this section, no ballots theretofore cast by mail 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.

Source: 24-392

Comment: No change.

§ 24.1-197. Party May Nominate When Nominee Dies, Refuses Candidacy or Nomination is Set Aside for Fraud.—Should the nominee of any party die, or refuse his candidacy, or if his nomination is set aside for fraud or any other reason between any primary and the succeeding election, any party may nominate to fill such vacancy in accordance with its own rules, except that no party shall nominate any person whose

nomination has been set aside for fraud knowingly participated in by the candidate.

Source: 24-365

Comment: No change except to place a portion of the old section in § 24-363.

§ 24.1-198. Candidates to Pay Fee Upon Filing.—Every candidate for any office at any primary shall, before he files his declaration of candidacy pay a fee equal to two percentum of one year's salary attached to the office for which he is candidate.

In case of a candidate for an office for which compensation is paid in whole or in part by fees, the amount to be paid by such 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 § 24.1-180.

Source: 24-398, 399, 400

Comment: The only change is to combine and increase nominal fee from \$1 to \$5 for those filing for an office which carries no salary.

§ 24.1-199. To Whom Fees Paid.—The fees shall be paid as follows:

(a) Candidates for United States Senators, for representatives in Congress, and for all State offices shall pay such fee to the Treasurer of the Commonwealth.

Candidates for the General Assembly of Virginia shall pay the primary fee to the treasurer of the candidate's county or city, and where the candidate's district is composed of more than one county or city the fee must be equally divided among the counties and cities in the district, and paid to the respective treasurers by the candidate.

The primary fees paid to such Treasurer shall be credited by him to a fund to be known as "the State primary fee fund".

In the event a prospective candidate pays the fee to such Treasurer, and does not become a candidate, such Treasurer shall refund the fee by warrant upon the State primary fee fund.

(b) All other candidates shall pay the fee to the treasurer of the city or county in which they reside. A receipt for the payment of such fee must accompany and be attached to the declaration of candidacy; otherwise the same shall not be received or filed; provided, that when for district officers of more than one county or city the fee shall be divided equally between the counties or cities comprising such district and paid to the respective treasurers thereof. In the event a prospective candidate pays the fee to a county or city treasurer and does not become a candidate, the treasurer shall pay back the fee. All other primary fees paid a county or city treasurer 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.

Source: 24-401

Comment: Provision allowing a refund of the filing fee to a candidate if he is not opposed has been removed. Restrictions concerning where funds from filing fees go has been deleted.

§ 24.1-200. **Copies of Article Distributed to Election Officials.**—Copies of this Article shall be distributed by the State Board of Elections to the various members of the electoral boards and officers of election throughout the Commonwealth.

Source: 24-408

Comment: No substantive change.

§ 24.1-201 (RESERVED)

§ 24.1-202 (RESERVED)

Article 6.

Voting Machines.

§ 24.1-203. **Governing Bodies Shall Acquire Machines; Time Schedule.**—The governing bodies of every county and city in this Commonwealth shall adopt for use at elections, within the time and for those precincts as set forth herein, any kind or type of voting machine that has been approved by the State Board of Elections, and shall use such voting machines at any and all elections held in such county or city or any parts thereof, for voting, registering and counting votes cast at such elections.

The governing bodies of all counties having optional forms of government and of all cities shall adopt and acquire for use such voting machines for all precincts and election districts within such county or city prior to October 1, 1972. All other counties shall adopt and acquire for use such voting machines for all precincts or election districts within such county containing three hundred or more registered voters prior to October 1, 1976. No county shall divide or create precincts or election districts so that resulting precincts or election districts will contain less than three hundred registered voters, in order to avoid the requirements of this section.

Such governing bodies shall purchase, lease, lease purchase, or otherwise acquire such voting machines and may provide for the payment therefor in such manner as they may deem proper. Voting machines of different kinds may be adopted for use and be used in different districts of the same county or city.

Any county required to acquire voting machines prior to October 1, 1976, may acquire such machines for precincts or districts containing less than three hundred registered voters.

Source: 24-291

Comment: Section rewritten to require voting machines in all precincts in cities and counties with the optional forms of government by 1972 and in other counties in all precincts of over 300 registered voters by 1976. A prohibition against splitting precincts in counties to avoid requirement and put precincts below 300 in qualified voters has been included.

§ 24.1-204. **Examination of Machines; Report of State Board; Compensation.**—Any person, firm or corporation owning or being interested in any voting machine may apply to the State Board of Elections to examine such machine, and make a report upon the capacity of the machine accurately to register and count votes, and in respect to mechanical

perfections and imperfections, and whether the same meets the requirements prescribed in this chapter. Their report shall be filed in the office of the State Board of Elections and shall state whether in their opinion the kind of machine so examined can be safely and conveniently used at elections as herein provided. If the report states that the machine can be so used, and meets the requirements herein prescribed, it shall be deemed approved by such State Board and machines of its kind may be adopted for use at elections as herein provided. No form of voting machine not so approved shall be used at any election.

Source: 24-293

Comment: The only change has been to take out references to Secretary of Commonwealth and leave report on machines in hands of State Board where it appears to belong.

§ 24.1-205. Construction of Machines.—Any kind or type of voting machine may be approved by such State Board which is so constructed as to fulfill, and does fulfill the following requirements. It shall provide facilities for voting for all candidates of as many political parties or organizations as may make nominations at any election; for or against or yes or no to 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 permit the voter to vote for as many persons for an office as he is lawfully entitled to vote for, but no more. It shall prevent the voter from voting for the same persons more than once for the same office. It shall permit the voter to vote for or against any question he or she may have the right to vote on, but no other. If used at a primary election it shall be so equipped 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 machine. It shall correctly register or record, and accurately count all votes cast for any and all candidates and for or against or yes or no to any and all questions. It shall be provided with a "protective counter" or "protective device" whereby any operation of the machine before or after the election will be detected. It shall be provided with a counter which shall show at all times during an election how many persons have voted. It shall be provided with a mechanical model, illustrating the manner of voting on the machine, suitable for the instruction of voters. It shall also be provided with one device for each party, for voting for all the presidential electors of that party by one operation, and a ballot therefor containing only the words "Presidential Electors For" preceded by the name of that party and followed by the names of candidates thereof for the offices of President and Vice President and a registering device therefor which shall register the vote cast for such electors when thus voted collectively. It must also insure voting in absolute secrecy.

Source: 24-294

Comment: A strange provision on presidential electors which clearly conflicts with old 24-290.5 has been deleted. The changes necessary concerning referendum questions have been made.

§ 24.1-206. Experimental Use.—The governing body of any city, town, or county may provide for the experimental use at an election in one or more districts or precincts of a machine which it might legally adopt without a formal adoption thereof, and its use at such election shall be as valid for all purposes as if it had been legally adopted.

Source: 24-295

Comment: No change.

§ 24.1-207. Ballots.—In every county and city adopting the use of voting machines the electoral board shall furnish a sufficient number of ballots printed on clear white paper, of such form and size as will fit the ballot frames of the machines, however, the names of the various candidates shall not be printed thereon in type less than 12 point. Party nominations shall be arranged on each voting machine, either in columns or horizontal rows, and the caption of the various ballots on the machines shall be so placed as to indicate to the voter what push knob, key lever or other device is to be used or operated in order to vote for the candidate or candidates of his or her choice. The provisions of general law concerning ballots shall apply unless in conflict with this section.

Source: 24-297

Comment: Specified requirement of size of type for names of candidates has been added to avoid the problem of unreasonably small print. The last sentence has been added to facilitate the deletion of some repetitious sections.

§ 24.1-208. Sample Ballot.—The electoral board of any city or county where voting machines are used shall provide for each voting precinct in which such machines are used, two sample ballots or instruction ballots, which shall be arranged in the form of a diagram of the entire front of the voting machine as it will appear after the official ballots are arranged therein or thereon for voting on election day. Such sample ballots shall be open to the public inspection at such polling place during the day of election.

Source: 24-298

Comment: No substantive change.

§ 24.1-209. Furniture and Machines to be at Polling Places; Custodians of Voting Machines.—It shall be the duty of the electoral board to have the voting machine or machines and all necessary furniture and equipment at the polling places before the time fixed for the opening of the polls, and have the counters on the machines set at zero (000), and otherwise in good and proper order for use at such election. For the purpose of placing ballots in the frames of the machine, putting it in order, setting, testing, adjusting, and delivering the machine, the electoral board may employ one or more competent persons, to be known as custodians of voting machines. Such 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 the election and shall be considered as election officers.

The board shall have the custody of such machines, furniture, and equipment when not in use at an election and shall maintain such machines in accurate working order and in proper repair.

Source: 24-299, 296

Comment: Only change has been to add the sense of part of old § 24-296.

§ 24.1-210. Notice to chairmen of committees of preparation of machine.—Before preparing a voting machine for any election, written notice shall be mailed to the chairman of the local committee of each of the two political parties which at the general election next preceding, cast the highest and next highest number of votes, and in a primary

election, to the chairman of the local committee of the political party holding such primary, stating the time, and place where the machines will be prepared, at which time one representative of each such political party, or in the event of a primary election, one representative of the party holding such primary election, shall be afforded an opportunity to see that the machines are in proper condition for use at the election. When a machine has been so examined by such representatives it shall be sealed with a numbered metal seal in their presence. Such representatives shall certify as to the numbers of the machines, that all counters are set at zero (000), and as to the number registered on the protective counter, and the number on the seal.

Source: 24-300

Comment: No change.

§ 24.1-211. Locking After Preparation.—When a voting machine has been properly prepared for an election, it shall be locked against voting and sealed; and the keys thereof shall be retained in the custody of the electoral board and delivered to the officers of election as provided for in § 24.1-57 and 24.1-216. After the voting machines have been delivered to the polling places it shall be the duty of the electoral board to provide ample protection against molestation or injury to the machine.

Source: 24-301

Comment: This section has been changed so that no longer must the keys be delivered with the voting machines which is impractical. Section 24.1-57 provides for the picking up of poll books and keys before the election. Section 24.1-216 gives the details concerning the security of the keys.

§ 24.1-212. Lights.—Every voting machine shall be furnished with a proper light, if necessary, to enable the voters while voting to read the ballots. All voting machines used in any election shall be provided with a screen, hood or booth which shall conceal the voter and his action while voting.

Source: 24-302

Comment: No substantive change.

§ 24.1-213. Instruction as to Use of Machine.—Not less than three nor more than fourteen days before each election the electoral board shall instruct, or cause to be instructed in the use of the machine and their duties in connection therewith the officers appointed to serve in such election, and shall not permit any person to serve as an officer who is not fully qualified properly to conduct an election with the machine, provided that nothing herein shall be construed as to prevent the appointment of a person as an officer of election to fill a vacancy in an emergency.

Source: 24-303

Comment: The only change has been to shorten period for instruction and make it closer to the election. It is felt that instruction closer to the election is more helpful.

§ 24.1-214. Demonstration of machine.—In any city, town or county in which voting machines are to be used, the electoral board may designate suitable and adequate times and places for the exhibition and demonstration of a voting machine 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 giving instructions as to the use of a voting machine to all voters who may apply for the same. No voting machine shall be used for such instruction after being prepared and sealed for use in any election. During such exhibitions, the counting mechanism of the voting machine shall be concealed from view.

Source: 24-304

Comment: No change.

§ 24.1-215. Voting Machine in Plain View; Officers and Others Not Permitted to See Actual Voting; Unlocking Counter Compartment of Machines, Etc.—At any and all elections at which voting machines are used, the exterior of the voting machine and every part of the polling place shall be in plain view of the officers of election. The voting machine shall be placed at least four feet from any table whereat any such officers may be engaged 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 see or ascertain how a voter votes or how he has voted. One of such officers shall inspect the face of the machine after each voter has cast his vote, to verify that the ballots on the face of the machine are in their proper places and that the machine has not been injured. During an election the door or other covering of the counter compartment of the machine 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 returns of election. No person shall be permitted in or about the polling place except as now provided by law in elections where paper ballots and ballot boxes are used.

Source: 24-305

Comment: The word “may” in the fourth sentence has been changed to “shall”, which now will require an officer of election to check the face of the machine after each vote. Since an officer must activate machine this seems reasonable and will avoid any undetected damage to the face of the machine.

§ 24.1-216. Duties of Election Officers.—The officers of each election precinct at which a voting machine is to be used shall meet at the polling place at least three-quarters of an hour before the time set for the opening of the polls at each election, and shall proceed to arrange the furniture, stationery and voting machine or machines for the conduct of the election. The officers of election shall then and there have the voting machines, ballots and stationery required to be delivered to them for such election. The officers shall thereupon post at least two instruction cards conspicuously within the polling place. If not previously done, they shall arrange, in their proper place on or in the voting machine, the ballots prepared for such election. The keys to the voting machine shall have been delivered to the officer of election designated by the electoral board pursuant to § 24.1-57 in a sealed envelope on which shall have been written or printed the number of the voting machine, the number of the seal and the number registered on the protective counter device. The envelope containing the keys shall not be opened until all of the officers of election for such precinct shall be present at the polling place and shall have examined the envelope to see that it has not been opened. The machine 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 office shall examine the machines and see that no vote has been cast and that the counters register zero. If any counter is found not to register zero, the officers shall adjust the counters at zero if it can be done by them; if not, they shall make a written statement of the designating letter and number of such counter, together with the number registered thereon, and shall sign and post the same upon the wall of the polling room, where it shall remain during the day of election, and in making the statement of results, they shall subtract such number from the number of registered ballots thereon.

Source: 24-306

Comment: The old requirement that the keys be delivered 30 minutes before the polls open was inconsistent with the old requirement that they be delivered with the machines and was unrealistic. Therefore, the requirement has been deleted and the keys, properly sealed, will be delivered with the poll books.

§ 24.1-217. **Write-in Ballots.**—Ballots voted for any person whose name does not appear on the machine as a candidate for office are herein referred to as write-in ballots. When two or more persons are to be elected to the same office, and the machine requires that all write-in ballots voted for that office be written in a single receptacle or device, an elector may vote in or by such receptacle or device in his own handwriting for one or more persons whose names do not appear upon the machine with or without the names of one or more persons whose names do so appear. With that exception and except for presidential electors, no write-in ballot shall be voted for any person for any office whose name appears on the machine as a candidate for that office; any write-in ballot so voted shall not be counted. A write-in ballot must be cast in its appropriate place on the machine, or it shall be void and not counted.

No write-in ballot will be counted when it is apparent to the officers of the election that a voter has voted for the same person for the same office more than one time.

Source: 24-307

Comment: The only changes are in the reference from “independent” to “write-in” ballots and adding the requirement that write-in’s be in own handwriting as in regular ballots.

§ 24.1-218. **Method of Voting.**—After the opening of the polls, the officers of election shall not permit any voter or other person to pass into the voting machine booth curtain or enclosure until they ascertain that he or she is entitled to vote.

Source: 21-308

Comment: The reference to “guard rail” has been deleted as well as the time limitation of one minute on use of machine. The time limitation on regular ballots has also been dropped thus leaving the question of the amount of time a person may spend in the machine up to the election officials. Naturally a person will have a “reasonable time” to use the machine but this determination will be made by the election officials.

§ 24.1-219. **Demonstration on Election Day.**—For the instruction of voters on any election day, there shall be provided for each polling place

a mechanically operated model of a portion of the face of the machine. Such model shall be located on the table of one of the officers or in some other place accessible to the voters and each voter so desiring shall, before entering the machine be instructed regarding its operation and such instructions illustrated on the model, and the voter given an opportunity personally to operate the model. The voters' attention may also be called to the diagram of the face of the machine so that the voter may become familiar with the location of the questions and the names of the offices and candidates. In case any voter, after entering the voting machine, shall ask for further instructions concerning the manner of voting, two of the officers 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 any particular ticket, or for or against any particular candidate, or for or against any particular amendment, question or proposition. After giving such instructions the officer shall, before the voter has voted, retire, and such voter shall cast his ballot in secret.

Source: 24-309

Comment: No substantive change.

§ 24.1-220. Assistance to Voters.—The provisions of the existing election laws relating to the assistance to be given to voters shall also apply where voting machines are used, and the word “booth”, when used in such sections, shall be interpreted to include the voting machine booth curtain or enclosure.

Source: 24-310

Comment: No change.

§ 24.1-221. Injury to Machines.—In case any voting machines used in any election district shall, during the time the polls are open, become injured so as to render it inoperative in whole or in part it shall be the duty of the officers to give immediate notice thereof to the electoral board and it shall be the duty of such board if possible to substitute a machine in good order for the injured machine, and at the close of the polls the record of both machines shall be taken, and two votes shown on their counters shall be added together in ascertaining the results of the election, but if no other machine is available for use at such election, and the injured one cannot be repaired in time to continue use thereof at such election, unofficial ballots made as nearly as possible in the form of the official ballots may be used, received by the officers of election and placed in a receptacle in such case to be provided by the election officers, and counted with the votes registered on the voting machines; and the result shall be declared the same as though there had been no accident to the voting machine; the ballots thus voted shall be preserved and returned with the statement of result with a certificate setting forth how and why the same were voted.

Source: 24-311

Comment: No substantive change.

§ 24.1-222. Determination of Vote.—As soon as the polls of election are closed the officers of election shall immediately lock and seal the voting machine against further voting and open the counter compartment in the presence of all persons who may be lawfully present at the time, giving full view of the counters and shall determine and announce the results as shown by the counters including the votes recorded for each office on the write-in ballots, and shall also announce the vote upon every amend-

ment, proposition or question voted upon. The vote as registered shall be entered on a statement of results and when completed shall be compared with the number of the counter machine. If found to be correct the statements shall be duly certified and sworn to and returned and filed as now provided by law for returning and filing election returns. If machines of the type that print returns are used, the printed return sheets, with the addition of write-in votes and votes cast on absentee ballots recorded thereon and duly certified and sworn to, may be inserted in the poll books by the officers in lieu of the type of written returns required by § 24.1-142 and whether so used or not, one return sheet from each machine shall be placed with the poll books and sealed and returned as required by § 24.1-143. No tally sheets nor return blank as required by law for use in election districts where paper ballots are used need be furnished or used where voting machines are used, and no ballots need be returned with the statement of results except the write-in ballots and ballots cast by absent voters.

Source: 24-312

Comment: No substantive change.

§ 24.1-223. Count of Absentee Voters' Ballots and Independent Ballots.—If absentee voters' ballots have been voted such ballots shall be counted and tallied and the vote thereon for each candidate, amendment or proposition added to the vote as recorded on the voting machine and included in the statement of results. Absentee voters' ballots and write-in ballots shall be enclosed in a sealed package, properly endorsed, and returned and filed with the statement of result as now required by law.

Source: 24-313

Comment: No substantive change.

§ 24.1-224. Locking of Voting Machines After Election and Delivering of Keys to Clerk.—After each voting machine shall have been locked by the officers of election, the keys thereto shall be enclosed in a sealed envelope having endorsed thereon a certificate of the officers of election stating the number of the machine, the election precinct, the number on the seal and the number of the protective counter, and shall be returned and delivered by one of the officers of the election to the clerk of the court of record where deeds are recorded, where the election was held. The voting machines shall remain locked for the period of ten days thereafter and as much longer as may be necessary or advisable because of any threatened contest over the result of the election, except as may be necessary to prepare the machines for another election, and shall only be opened and all data examined upon the order of a court of competent jurisdiction. Where recounts occur in precincts using printed return type machines, the printed returns made to the clerk may be used as the official evidence of the results.

Source: 24-314

Comment: Only substantive change is to make locking of machines for 10 days instead of 30. This change is brought about due to the fact that special elections can occur within thirty days of other elections and will cause chaos.

§ 24.1-225. What Statutes Apply.—All of the election laws now in force, and not inconsistent with the provisions of this chapter, shall ap-

ply with full force and effect to elections in counties, cities and towns adopting and using voting machines.

Source: 24-315

Comment: No substantive change.

§ 24.1-226 (RESERVED)

Article 7.

Absentee Voting.

§ 24.1-227. **When Absent Voter May Vote.**—The following persons 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 duly registered person who will, in the regular and orderly course of his business, profession, or occupation or while on vacation, be absent on the day of election from the county or city in which he is entitled to vote;

(2) Any person on active service as a member of the Armed Forces of the United States, who will be absent on the day of election from the county or city in which he is entitled to vote;

(3) Any duly registered person, who is the spouse of any person on active service as a member of the Armed Forces of the United States or who is a student, or the spouse of a student attending any school or institution of learning, and who will be absent on the day of election from the county or city in which he is entitled to vote; or

(4) Any duly registered person who is ill or physically unable to attend the polls on the day of election.

Source: 24-319

Comment: This section has been changed to specifically identify in one section all persons entitled to vote by absentee ballot and the other sections within this article relate to the subsections herein. Subsection (1) contains the categories of persons who will only be able to apply and vote in person. Subsection (2) contains armed service personnel who do not have to be registered and can apply and vote in person or by mail. Subsection (3) contains students and spouse, spouse of armed forces personnel and (4) those physically unable to attend polls; all of whom must be registered and can apply and vote in person or by mail. Under the proposed Constitution (Article II, Section 4) this section and those following will have to be changed to require that the member of the armed forces be registered to vote. In conjunction with this the legislature should consider absentee registration legislation.

§ 24.1-228. **Application for Absentee Ballots.**—It shall be the duty of the electoral board of each county or city to furnish the general registrar with a sufficient number of applications for official ballots on forms prescribed by the State Board of Elections; and it shall be the duty of such registrars to furnish an application form, in person or by mail as may be required, to any qualified voter requesting the same for the purpose of offering to vote in an election by absentee ballot.

All applications for absentee ballots shall be made in writing to the appropriate registrar and delivered to him by the applicant in person or by mail, not less than five nor more than thirty days prior to the election in which the applicant offers to vote. Such applications shall be signed by the applicant under the penalty of perjury as to the facts therein stated.

Applications for absentee ballots shall be as follows:

(1) An application made under § 24.1-227(1), which shall be completed in person before the general registrar or a member of the electoral board only in the office of the registrar or secretary, shall be made on the form furnished by the registrar, signed by the applicant in the presence of either the registrar or a member of the electoral board and shall contain the following information:

(a) The reason why the applicant will be absent;

(b) The name or number of precinct in which the applicant offers to vote, and

(c) A statement that he is a resident of and duly registered in such precinct.

(2) An application of a member of the Armed Forces, made under § 24.1-227(2), or of the spouse of a member of the Armed Forces made under § 24.1-227(3), which shall contain the following information:

(a) A statement that the applicant or the spouse of the applicant is on active service as a member of the Armed Forces of the United States and the applicant will be absent from the county or city in which he is entitled to vote on the day of election;

(b) The name or number of precinct in which he offers to vote and a statement that he is a legal resident thereof;

(c) The branch of service to which he or the spouse belongs, his or the spouse's rank, grade or rate, service identification number, his home and service addresses and the date of his birth, and

(d) In the case of the spouse of a serviceman, a statement that the applicant is duly registered in the precinct wherein the ballot will be cast.

(3) An application made under § 24.1-227(3) or (4), which shall be signed by the applicant in the presence of one subscribing witness, who shall subscribe the same and vouch, subject to the penalty of perjury, for the truth of the facts contained in the application as to which he has knowledge, and shall contain the following appropriate information:

(a) The reason why the applicant will be absent;

(b) In the case of a student or the spouse of a student attending a school or institution of learning, the name and address of such school or institution of learning;

(c) In the case of a person who is ill or physically unable to attend the polls on the day of election, the nature of the illness or physical disability;

(d) The name or number of precinct in which the applicant offers to vote, and a statement that he is a legal resident thereof, and duly registered;

(e) The application shall be accompanied by sufficient postage or legal tender, as indicated thereon, to defray the cost of mailing the ballot to the applicant, if to be delivered by mail.

Source: 24-320, 321, 322, 323, 324, 345.2 and 345.5

Comment: Section combines numerous sections. It requires all except armed forces personnel and spouse use application form set by State Board of Elections. Category (1) includes those who can only apply and vote in person. Category (2) includes armed forces personnel and spouses. Category (3) includes students and spouses and those physically unable to attend. It requires name and address of school and nature of illness and in this case witness is held accountable to his own knowledge.

§ 24.1-229. Duty of Registrar and Electoral Board Upon Receipt of Application.—The general registrar, upon receipt of the application for a ballot, if the applicant is duly registered where registration is required, shall enroll the name and address of the applicant on the list to be made and kept by him for the purpose, and shall either forward the application forthwith to the secretary of the electoral board, noting thereon that the applicant is a registered voter, if registration is required, or approve the application, note the fact of registration, and return it to the applicant for delivery to the secretary of the electoral board. If it then appears to the electoral board that the applicant is a resident and registered voter, if required, of the precinct in which he offers to vote, the electoral board shall send to the applicant by registered or certified mail, with return receipt requested, or deliver to him in person, except in the case of a person on active service as a member of the Armed Forces of the United States, the following items and nothing else; provided, however, that if the applicant states as the reason for his absence on election day any of those set forth in § 24.1-227(1), the registrar or the secretary of the electoral board, upon the determination of the qualification of the applicant to vote, shall deliver the following items only to the applicant himself in proper person and no item shall be removed by the applicant from the office of the registrar or the secretary of the electoral board:

(a) An envelope containing the folded ballot, sealed and marked "ballot within." Do not open except in presence of a notary public or other officer mentioned in § 24.1-232.

(b) An envelope for resealing the marked ballot, on which is printed the "voucher", in the following form:

"Voucher.

"This is to certify that the enclosed ballot was received by me upon my application to the registrar of the _____ (county or city) of _____, Virginia. The envelope marked 'ballot within' was opened by me in the presence of _____, notary public (or other person mentioned in § 24.1-232, of the _____ (county or city), marked while in his presence, without assistance or knowledge on the part of anyone as to manner in which same was prepared, and then and there sealed as provided by law.

(Signed)

Teste:

Notary Public (or other person mentioned in § 24.1-232).”

(c) A properly addressed envelope for the return of the ballot to the electoral board by registered or certified mail or by the applicant in person and, if available, the appropriate blank material required to register or certify the mail.

(d) A printed slip giving instructions as to the manner of making out the voucher on the envelope for the return of the ballot hereinafter mentioned and how the same shall be returned.

(e) A “coupon”, in the following form:

“Coupon.

“Name (given by voter), height, age (given by voter), weight (estimated), color of hair; color of eyes, birthplace (given by voter), occupation (given by voter), State and county or city where voter claimed to have last voted

“To the best of my knowledge, the above information is correct, and the applicant has complied with the requirements of the law as above provided. I have no knowledge whatever of the marking, erasure, or intent of the ballot enclosed.

(Signed)

Notary Public (or other person mentioned in § 24.1-232).”

If the applicant is on active service as a member of the Armed Forces of the United States, the electoral board shall mail or deliver in person to the applicant in person the ballot as set forth in (a) above accompanied by the instruction slip set forth in (d) above. The covering envelope shall contain in the lower left-hand corner the words “Official Virginia Armed Forces Ballot”, or such other words as the Acts of Congress or regulations of the transmitting Federal agency may require. A return envelope, as set forth in (c) above shall be furnished and in the lower left-hand corner shall appear the same words as on the covering envelope. In addition an envelope for use as prescribed in (b) above shall be furnished and shall have printed thereon, in lieu of the words “Voucher”, the following to be completed:

“Official Virginia Armed Forces Ballot.
“Voter must place ballot herein and seal.”

and upon the other side the following words:

“Oath of Voter.

“I do swear (or affirm) that I am now and have been a citizen and domiciliary resident of Virginia since the day of, 19., and am a resident of the (county or city) of, residing at (name of city or county), and am (street and number or place of residence therein) now in active service in the Armed Forces of the United States; that I am at least twenty-one years of age or will be on the day of, 19., and that by

exercising the privilege of voting I acknowledge and accept all responsibilities and obligations of full citizenship of the Commonwealth of Virginia. The name and/or number of my voting precinct is
(if known, so state)

“Signature of voter:
“Subscribed and sworn to before me this
day of, 19....
Signature of officer:

.....
Rank and Title of Officer—
Identification No. (or other person
mentioned in § 24.1-232).”

Source: 24-327, 332, 333, 345.6, 345.7

Comment: Sections rewritten and combined to bring all matters on processing of the application into one section. This makes it clear in beginning of section that those persons who can only vote in person cannot take material and ballot away from office of registrar or secretary of electoral board. Specific provision is made that only the specified material can be furnished and nothing else. Places some burden on board to furnish material concerning registered or certified mail. Makes it clear that in the case of armed forces personnel, an officer or any one qualified can take acknowledgement.

§ 24.1-230. Ballots to be Returned by Registered or Certified Mail or in Person.—Any ballot returned to a member of the electoral board at the office in any manner except other than as prescribed by law shall be void. The board shall mark on each envelope the date, time and manner of delivery. In the event that the ballot is returned to the general registrar, he shall mark the date, time and manner of delivery to him. 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 such return.

Source: 24-328

Comment: Changes made allow general registrar to take ballot in person to the Board and requires that he obtain a receipt for its delivery. Also, it is now required that the general registrar note the date, time and manner of delivery of the ballot to him.

§ 24.1-231. Registrar to Make Lists of Applicants and Voters.—Before each election the general registrar shall make out in triplicate a list of the names and addresses of all persons who have applied to him for such ballots and shall at least four days before any election deliver one copy to his electoral board, post a copy in the office of the general registrar, and deliver one copy to the clerk of the court of record wherein deeds are recorded. Such electoral board and clerk shall maintain such lists in his office for a period of twelve months as public records open to public inspection during office hours.

On the morning of the day of election on which the ballots are to be offered, the electoral board shall post true copies of the lists required herein and by § 24.1-234 in conspicuous places at the polling place of the respective proper precincts.

The electoral board shall, within ten days after the day of election, forward to the State Board of Elections a certificate setting forth the number of persons whose names appear upon each precinct list required by § 24.1-234 and also the number of persons whose names appear upon all such lists for the county or city.

Source: 24-330, 339, 338.1, 345.8

Comment: Sections rewritten and combined to cover all lists. Requirements changed to establish that the filing and posting of lists of applicants shall be four days before election.

§ 24.1-232. How Ballots Marked and Returned; Ballots Cast in Person.

—Upon receipt of the registered or certified letter forwarded by the electoral board, the voter shall not open the sealed envelope, marked “ballot within”, except in the presence of a notary public or other officer authorized by law to take acknowledgements to deeds or in the case of a serviceman a commissioned officer in the Armed Forces, and shall then and there mark, as provided in § 24.1-129, and refold the ballot without assistance and without making known the manner of marking same. He shall then and there place the ballot in the envelope provided for the purpose, seal the envelope, and fill in and sign the voucher printed on the back of the envelope in the presence of a notary public or other officer hereinabove provided, who shall witness the same in writing. This envelope, together with the coupon, which must be filled out and signed by the notary public, or other officer as herein provided, shall be enclosed within the envelope directed to the electoral board which shall then and there be sealed, and shall be registered or certified and mailed, with return receipt requested, to the electoral board, or delivered personally by the voter to the electoral board or to the general registrar.

In the event that the applicant comes under § 24.1-227(1), he shall follow the same procedure as set forth above except that it shall be done in person, upon receipt of the items set forth in § 24.1-229, before either the general registrar or the secretary of the electoral board, in lieu of a notary, and failure to do so will render the applicant’s ballot void. Such applicant shall comply with this section and vote in person not less than five days prior to the election in which he offers to vote.

Source: 24-334, 337

Comment: The last paragraph spells out that category (1) people must cast ballots in person before registrar, or secretary of electoral board and cast the ballot five days before election. The five day requirement is included because application must be filed five days before and it all becomes one process.

§ 24.1-233. Return of Unused Ballots; Ballot Voided at Request of Voter on Election Day.—If for any reason a person, who has applied for and received a ballot, should decide not to vote the same, it shall be his duty to return such ballot unopened, in the sealed envelope in which it was received, to the electoral board from which he received the same, on or before the day of the election in which such ballot was intended to be used.

The electoral board shall cause to be noted on the list required by § 24.1-234 to be kept by it, opposite the name of the person returning such ballot, the fact that the same was returned unused, with the date of the return thereof, and shall carefully preserve all such ballots so returned and deliver them, together with the other ballots, to the officers of election

on election day. If a voter, after having returned his unused ballot as provided herein, shall present himself at his precinct to cast his vote personally on election day, he shall be entitled to cast his ballot.

On the day of election any voter who has executed and returned a ballot under the provisions of this Chapter may appear in person at the polls and declare that he has cast an absentee ballot and requests that it be voided. Such voter may, if otherwise qualified, vote in the same manner as any other voter. The officers of election shall strike the name of the voter from the list of persons returning ballots and mark upon the ballot, envelope and papers "voided at request of voter," and sign their names thereto.

Source: 24-336, 340.1

Comment: These sections have been combined. The provision requiring return of unused ballot three days before election has been dropped. Now the ballot must be returned on or before the day of election. Last paragraph represents rewrite of old section 24-340.1 and takes out requirement that ballot be produced before person can void and vote. This last paragraph must be read in light of 3rd paragraph of § 24.1-130, etc., which gives double check to see that no one votes twice.

§ 24.1-234. Deposit of Returned Ballot by Electoral Board.—Upon the receipt of the ballot, the electoral board shall enroll the full name and address of the voter on a list which it shall keep by precincts for the purpose, and shall write in ink following each name, "Received ballot on at o'clock" (date and time of receipt), and shall attach to the unopened envelope containing the ballot the coupon enclosed with the sealed ballot, the envelope containing the affidavit and certificate, if any, of the voter, and the application, and shall deposit such unopened ballot, envelope, and papers in a separate container provided for the purpose for each precinct, in which container the ballot, envelope, and papers shall remain until the day of election.

On the day of election the electoral board shall deliver to the officers of election at the proper precincts the containers, taking their receipt therefor. The containers shall be sealed prior to such delivery, and shall have therein the sealed ballots with their accompanying coupons, applications and envelopes containing affidavits and certificates, and the lists of prospective voters for such precincts. Ballots received from the voter after election day shall be delivered to the clerk of the court of record wherein decds are recorded.

At the close of the regular balloting, the box shall be opened by the officers of election, and the ballots deposited in regular ballot boxes in the following manner. As each envelope is removed from the box, the name of the voter shall be called and checked as if the voter were voting in person. If found entitled to cast his vote, the envelope shall then, but not until then, be opened, and the ballot deposited in the regular box without examining or unfolding it, and the name of the voter shall be entered by the officers on the poll books.

When all ballots have been accounted for and either voted or rejected, the empty envelopes that previously contained the ballots shall be placed in an envelope with the letters of applications and coupons, and they, together with the rejected envelopes, if any, on which, or attached to which, shall be plainly written the cause of rejection, signed by a majority

of the officers of election, shall be sealed up with the ballots cast at such election to be delivered as provided by law.

Source: 24-338, 340, 341, 342

Comment: All sections on processing of the ballot have been combined into one. Changes made to require that all documents concerning absentee ballots to be left sealed in the envelope.

§ 24.1-235 (RESERVED)

CHAPTER 8
CONTESTED ELECTIONS & RECOUNTS

§ 24.1-236. Contest of Election to General Assembly.—Any person intending to contest the election of another, as a senator or delegate to the General Assembly, shall, within fifteen days after the day on which the election commenced, give to the person elected notice thereof in writing, and a list of the votes he will dispute, with his objections to each, and the votes improperly rejected for which he will contend. If he objects to the legality of the election, or eligibility of the person elected, the notice shall set forth the objections.

The person whose election is contested, shall, within five days after receiving such notice, deliver to his adversary a like list of all the votes which he will dispute, with his objections, and the votes improperly rejected which he will claim, and the notice of his objections, if any he has, to the eligibility of the contesting party.

Each party shall append to the list of votes he intends to dispute or claim an oath to the following effect: "I do swear (or affirm) that I have reason to believe that the persons, whose names are above mentioned, are not legally qualified (or are qualified, as the case may be), to vote in the county of, (or city or district of)." ."

The contestant shall take his depositions within twenty days after the day of election, and the contestee shall begin and complete the taking of his depositions within ten days after the time fixed for the contestant to take his depositions. No depositions shall be read in favor of any party which are not taken within the time herein prescribed.

The notices and lists required by this chapter may be given and delivered, in the mode prescribed by § 8-51. Every deposition shall be taken, after reasonable notice, before a justice or notary, who shall certify and seal up the same in like manner as if the deposition was in a civil suit, and direct the same to the clerk of the house in which the seat is contested.

When the petition of the party contesting is referred to a committee, the clerk shall refer the depositions with the petition.

Subpoenas for witnesses shall be issued by the clerk of the court of record wherein deeds are recorded, upon the application of either party. Such witnesses shall be entitled to the same allowances and privileges, and be subject to the same penalties, as witnesses summoned to attend the courts.

A petition or complaint shall be presented in writing to the proper house by the contesting party within ten days after its meeting, if the disputed election was held at the regular November election; or if it was

a special election to supply a vacancy during the session of the General Assembly, within thirty days after such election.

If after investigation it shall be ascertained by the house in which the contest is being had, that an equal number of legal votes were given for the petitioner and for the member returned, the election shall be null and void, and a writ of election ordered, as in other cases of vacancy.

Nothing contained in this chapter shall be construed to in any way inhibit or impinge upon the right of the General Assembly to determine the qualifications of its members.

Source: 24-419, 420, 421, 422, 423, 424, 425, 426

Comment: All of these sections have been combined and the last paragraph added making the General Assembly's authority over seating of its own members clear.

§ 24.1-237. Contests of Elections of Governor, Lieutenant Governor and Attorney General.—In all contested elections of Governor, Lieutenant Governor, and Attorney General, notice of such contest shall be given to the party whose election is contested within fifteen days after the declarations of the result of such election shall have been officially made, and a counter notice shall be given to the contestant within ten days after the receipt of the notice of contest.

Depositions shall be taken and certified to the clerk of the House of Delegates in contest for Governor, Lieutenant Governor, and Attorney General, as prescribed in contests for seats in the General Assembly, and the witnesses shall be summoned and entitled to like allowances and privileges, and be subject to like penalties as witnesses summoned to attend the circuit or corporation courts.

Contested elections, in the cases of Governor, Lieutenant Governor, and Attorney General, shall be determined by the General Assembly, both branches thereof sitting in joint session in the hall of the House of Delegates, at which joint session the Speaker of the House of Delegates shall preside.

Source: 24-427, 428, 429

Comment: Sections combined. No change.

§ 24.1-238. Contest of Nominations for United States Senate or Statewide Office.—In the case of a nomination of a candidate for election to the United States Senate, or for nomination for election to 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 senior judge of such circuit court and two judges of courts of record of counties or cities in this Commonwealth not contiguous to the city of Richmond appointed by the Chief Justice of the Supreme Court of Appeals, or, in the event of his inability to act, then by the next senior justice of such court, which appointing justice shall at the time of appointment set the date for trial.

If the senior judge of the Circuit Court of the City of Richmond be absent or unable to sit in such proceeding, or in the event such judge shall enter of record that he is so situated with respect to the proceeding as to render it improper, in his opinion, for him to sit in such proceeding and the clerk of the court shall at once certify the same to the Chief Justice of the Supreme Court of Appeals, then a third judge shall be designated in the same manner as were the two remaining judges, except that in appoint-

ing such third judge, the Chief Justice of the Supreme Court of Appeals or the associate justice acting in his stead shall, if possible, appoint a judge of a court of record of the City of Richmond or an adjoining county.

Source: 24-393

Comment: Only substantive change is to require appointing justice to set time for trial to avoid delay.

§ 24.1-239. Contest of Other Nominations and Elections.—In the case of a nomination of a candidate for election to the House of Representatives of the United States, or the nomination for election to the State Senate, the House of Delegates, or the nomination or election of a candidate to any county, district or city office, the proceeding to contest shall be in the court of record wherein deeds are recorded of the county or city in which the challenged candidate resides. The proceeding shall be before a special court composed of the judge of such court of record and two judges of counties or cities remote from the county or city in which such candidate resides, appointed by the Chief Justice of the Supreme Court of Appeals, or, in the event of his inability to act, then by the next senior justice of such court, who shall at the time of appointment set the date for trial.

If the judge of the court of record wherein deeds are recorded of the city or county in which the candidate resides be absent or unable to sit in such proceeding, or, in the event such judge shall enter of record that he is so situated with respect to the proceeding as to render it improper, in his opinion, for him to sit in such proceeding and the clerk of the court shall at once certify the same to the Chief Justice of the Supreme Court of Appeals, then a third judge shall be designated in the same manner as were the two remaining judges, except that in appointing such third judge, the Chief Justice of the Supreme Court of Appeals or the associate justice acting in his stead shall, if possible, appoint a judge of the same or an adjoining county or city.

Source: 34-394

Comment: No substantive change except to conform with preceding section.

§ 24.1-240. Contest Only Upon Complaint of Unsuccessful Party.—Any contest of any election to any office shall be initiated only by a written complaint of one or more of the unsuccessful candidates for election thereto. In case of contests pursuant to §§ 24.1-238 and 239 such complaint shall contain specific allegations which, if proven true, may change the result of the election. The complaint may allege an undue election or false return. If the objections be to the legality of the election or eligibility of the person apparently elected, the complaint shall so state, and the nature of the objections. If the objections be to votes received or rejected, the complaint shall set forth a list of the votes complained of and the objections to each.

Source: Draft and 24-430, 432

Comment: This section would allow only a defeated party to initiate any contest of an election. This would move away from the present law allowing a group of voters to petition for a contest. This section also sets forth the objections which must be alleged in the complaint in the event of a contest.

§ 24.1-241. Time of Filing and Service of Complaint.—The complaint shall be filed in the clerk's office of the court of record wherein deeds are recorded within thirty days after the election in the case of a general election, and within ten days after the election in the case of a primary election and a copy thereof served, as a notice is served under § 8-51, on the person whose election is contested; otherwise the complaint shall not be valid.

No enlargement of the complaint and no amendment thereto, except as to form, shall be permitted.

Source: 24-434

Comment: Changes expand number of days to file a contest to 30 days in a general election contest and makes it 10 days for a primary election contest. The previous recommendation of a September primary date and the shortness of time brought about was a major factor in this variance of time between a primary and a general election contest.

§ 24.1-242. Filing counter complaint.—The person whose election is contested shall, within ten days after the copy is served on him, file in the clerk's office a counter complaint, in which he shall set forth a list of all the votes which he will dispute, with the objections to each, and of the votes improperly rejected which he will claim, and a statement of the objections, if any, he has to the person in whose behalf the contest is made. If no such counter complaint be filed within the time prescribed, the person whose election is contested shall not be heard to assert any claim or objection which is herein required to be stated in such counter complaint.

No enlargement of the counter complaint and no amendment thereto, except as to form, shall be permitted.

Source: 24-435

Comment: No change.

§ 24.1-243. Taking Depositions and Deciding Such Contests.—After service of a copy of the complaint, any party, after reasonable notice to the other party or parties, shall be at liberty to take depositions to sustain or invalidate the election or return. 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 upon any other legal testimony that may be adduced by any party. In judging of such election or return, the court shall proceed on the merits thereof and decide the same according to the Constitution and laws.

Source: 24-436

Comment: No substantive change.

§ 24.1-244. Costs and Issuance of Certificate of Election.—When the contest is decided, costs shall be taxed against the candidate filing such complaint if he shall be unsuccessful, and if he is successful, then the costs shall be taxed against the county or city or counties or cities included in the area in which such election was held. A certificate of election shall be granted to the successful party, unless he shall have already received one.

Source: 24-437, 395.3

Comment: This section has been rewritten to conform to those provisions of the recount sections concerning costs.

§ 24.1-245. Procedure When Court Decides no Valid Election Has Been Held.—If the court shall be of the opinion that there has been no valid election of any person, the proceedings shall be in conformity with § 24.1-76.

Source: 24-438

Comment: No change.

§ 24.1-246. 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 such candidate to the proper electoral board or boards and such candidate shall be the party nominee and his name shall be printed on the official ballot to be used in 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, in such case, the court be unable to determine which candidate received a plurality of valid votes, or, if the court determine that there has been no valid election, the party nominee shall be determined in accordance with the provisions of § 24.1-197 of the Code.

Source: 24-395.1

Comment: The only changes have been to modify the old section because of deletion of the runoff and make the section apply to all party primary contests.

§ 24.1-247. Recounts for Certain Offices and Referendums.—When in any election:

(a) For any office in the Commonwealth elected by the qualified voters, there is, between the candidate apparently nominated or elected and the candidate or candidates receiving the next higher number of votes, a difference of not more than one percentum of the total vote cast in the said election, for the two such candidates, or, in an election for members of a board of supervisors, there are less than five hundred votes cast in the magisterial district and there is a difference of not more than five votes in the total vote for the two such candidates, the candidate or candidates receiving the next higher number of votes may appeal from the determination of the electoral board for a recount of such vote as set forth herein, or

(b) A referendum held under any provisions of law wherein there is between the vote for the proposition and the vote against the proposition a difference of not more than fifty votes or one percentum of the total vote cast, whichever is greater, in such referendum for and against such proposition, then by petition, signed by at least twenty qualified voters, such voters may appeal from the determination of the electoral board for a recount of such vote as set forth herein.

The application or petition for a recount shall be made within ten days from the day the electoral board ascertains the result of the election, and has reduced the result to writing, and signed the same under § 24.1-146, but not thereafter. Such appeal shall be filed in the court of record wherein deeds are recorded in any county or city comprising a part of such elec-

tion district. The petition shall set forth the results so found by the board and shall request the court to have the ballots in such election recounted or, in the case of voting machines, the vote redetermined. In the case of election for office as set forth above, a copy of the petition shall be served on the candidate apparently nominated or elected in the same way a notice is served under § 8-51 and within ten days after the board has determined the results of such election. Upon filing of any such petition the judge of the court in which the same is filed shall notify the Chief Justice of the Supreme Court of Appeals who shall thereupon designate two other judges to sit with the first judge and such court shall be constituted and sit in all respects as a court appointed and sitting under §§ 24.1-238 and 24.1-239.

The secretaries of the electoral boards in the election district shall deliver to the court so constituted all poll books used and all ballots cast at the election for such candidates or for or against such proposition. The court shall recount the ballots, or supervise the recount. If any ballots of any precinct cannot be found, the court shall summon the officers of election and members of the electoral board to testify as to the truth and correctness of the votes cast as shown in the poll books. The court shall from such evidence determine the votes cast for each candidate or for or against such proposition in said precinct. The court so constituted shall certify the results of the recount to the State Board of Elections and the electoral board or boards, and assess costs of such proceeding against the petitioner if he shall lose the recount, and if the petitioner wins the recount, then the costs of such proceeding shall be assessed against the county or city or counties or cities included in the area in which such election was held.

The court shall stay the action of any electoral official or officials in connection with the outcome of the election, pending the recount by the court.

Source: 24-277.2, 277.1, 277.4

Comment: The sections on recounts in the cases of candidates and referendums have been combined. This section as drawn now includes all offices in the Commonwealth, United States Senator, House of Representatives, Governor and down the line to all local offices in regard to recounts where the vote difference is one percent or less.

§ 24.1-248. Procedure in Cases Under § 24.1-247.—After the petition is filed and the court is convened under § 24.1-247, the court shall, prior to the recount, call a preliminary hearing, at which all motions shall be disposed of, and at which the rules of procedure shall be fixed. The court shall then permit each candidate, or petitioner and governing body under § 24.1-247 to select an equal number of the officers of the election to physically count the ballots, or in the case of voting machines to redetermine the vote, provided that the number selected shall not be less than two nor more than three persons for each two thousand ballots cast in the election. The court shall then set a date for the recount under § 24.1-247, and shall summons all of the persons selected by the candidates, or petitioner and governing body, to appear at the recount. There shall be at least two separate teams who shall act independently of each other and who shall proceed to recount the several precincts in their numerical or alphabetical order as the case may be. Each team shall be composed of an equal number of the officers of elections selected by each party to the contest. At the conclusion of the recount of each precinct the persons performing the recount shall write down the number of valid ballots cast,

this number being obtained from the ballots cast in the precinct or from the ballots cast as shown in the poll books if the ballots cannot be found, for each candidate and submit the ballots or the poll books used, as to the validity of which questions exist, to the court. At the conclusion of the recount of all precincts the court shall rule on the validity of all questioned ballots and by an appropriate order certify to the State Board of Elections and the electoral board or boards the vote of each of the nominees and candidates and declare the persons who received the higher number of votes to be the nominee or nominees, or elected official or officials.

Source: 24-277.3

Comment: No substantive change.

§ 24.1-249 (RESERVED)

§ 24.1-250 (RESERVED)

CHAPTER 9

FAIR ELECTIONS PRACTICES ACT

§ 24.1-251. **Elections to Which Applicable.**—The provisions of this Chapter shall apply to all elections held within the Commonwealth except any election for members of the United States Congress.

Source: Draft

Comment: This chapter is intended to cover all elections in the Commonwealth in relation to campaign expenditures and receipts and their disclosure except those elections concerning either the U. S. House of Representatives or the U. S. Senate. This exception has been made because of a conflict which could exist with Federal disclosure statutes. The Federal requirement is contained in 2 U.S.C. § 246.

§ 24.1-252. **Summary of Election Laws; Forms.**—The State Board of Elections shall summarize the provisions of the election laws relating to campaign contributions and expenditures and provide for distribution of this summary to all candidates for nomination for or election to office at the time such candidates file for nomination or election and shall prepare and include in such distribution to each candidate specimen forms provided for in this chapter and shall provide such additional specimen forms as may be requested.

Source: Draft

Comment: This section requires the state board to disseminate the law and the forms to comply with it.

§ 24.1-253. **Appointment of Campaign Treasurer, Assistant Treasurer; Assistant Treasurer's Report.**—

(a) Each candidate for nomination for, or election to, any office in the Commonwealth upon or before, and as a condition precedent to, qualifying as such candidate shall appoint one campaign treasurer and shall file the name and address of the campaign treasurer with the electoral board where he resides and the State Board of Elections. Every treasurer so appointed shall accept such appointment, in writing, prior to filing thereof.

(b) The treasurer for a candidate may appoint a separate assistant treasurer for any county, city or town, which assistant treasurer shall deposit funds, disburse and account for the same in the same manner as herein provided with respect to a treasurer. It shall be the duty of every such assistant treasurer to upon request make a report as prescribed in § 24.1-258 to the treasurer appointing him. The assistant treasurer's report shall be attached to and the total amounts of contributions and expenditures contained therein incorporated into the treasurer's report prescribed in said § 24.1-258 and filed as required by § 24.1-257.

(c) No person shall act as treasurer or assistant treasurer unless the statement of appointment required in subsection (a) of this section shall be filed. Nothing in this Chapter shall prevent the treasurer or assistant treasurer of any candidate from being the treasurer or assistant treasurer of another candidate. A candidate for office or nomination may designate himself as his own treasurer and he shall comply with all the requirements of a treasurer. No person shall be appointed or act as treasurer or assistant treasurer in any election who is not a qualified voter of the Commonwealth.

Source: Draft

Comment: This section spells out who may serve as a candidate's treasurer and how he is appointed. It makes it clear that there can be county and city assistant treasurers and that a treasurer may serve more than one candidate.

§ 24.1-254. Campaign Depositories.—Each candidate shall designate a campaign depository or depositories in a bank or banks within the Commonwealth and all funds and contributions in furtherance of a candidacy, shall after receipt thereof be deposited by the treasurer or assistant 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 assistant treasurer shall pay any expense on behalf of a candidate, directly or indirectly, except by check from such designated depository.

Source: Draft

Comment: This section requires funds be deposited in a duly designated Bank in Virginia and all funds are required to pass through this account.

§ 24.1-255. Money, etc., Paid or Reported to Treasurer; Party Committee; etc.—All monies, services or other things of value, collected, received or disbursed by or on behalf of any candidate or in relation to his candidacy from every source, shall be paid over or delivered to the candidate's treasurer or shall be reported to such candidate's treasurer and, in turn, reported by him as required by this chapter. It shall be unlawful for any candidate, or anyone disbursing or expending money, services or other thing of value in relation to his candidacy, to fail to report every such disbursement or expenditure as required herein.

Any political party committee that receives or disburses any monies, services or other things of value in any election shall, in lieu of reporting to a candidate's treasurer, comply with the requirements by designating a treasurer and depository pursuant to §§ 24.1-253 and 24.1-254 and maintaining records and report pursuant to §§ 24.1-256, 257 and 258. Such reports shall be made in the case of a county or city committee to the county or city electoral board and the State Board of Elections and in the case of a state central committee only to the State Board of Elections.

Any person receiving or disbursing any monies, services, or other things of value in any election not paid, delivered or reported to a candidate, his treasurer or a political party committee shall report such receipts and disbursements pursuant to §§ 24.1-257 and 258 to the State Board of Elections.

In the case of services or things of value, a reasonable value shall be designated therefor and the basis for arriving at such designated value shall be stated.

Source: Draft

Comment: This section requires every contribution, of whatever nature, used in relation to any candidacy be either paid to the treasurer or reported to such treasurer. It spells out the requirement that services be valued and reported. It is not intended by this section to require the reporting of an individual's time and talents donated to a candidate in the word "services". This section also requires political party committees to file separately and has a catchall section for any other person who is involved in any election.

§ 24.1-256. Books, Records of Treasurer or Assistant Treasurer.—Every candidate or his treasurer shall keep detailed, full and accurate accounts of all contributions, money, services, or valuable things received, promised, or reported, and of all expenditures, disbursements and promises of payment or disbursements of money or valuable things made by or reported to any candidate or by such treasurer. Such statement and account shall set forth the sum or valuable thing so received, or disbursed, or promised, or reported, as the case may be, and the date when, the name and address of the person from whom received, promised, or reported, or to whom paid or promised, as the case may be, and the object and purposes for which the money, or other valuable thing, was received, or disbursed, or promised, as the case may be. Such books and records may be destroyed or discarded at any time after one year from the date of filing the final report required by § 24.1-257 unless a court of competent jurisdiction shall order their retention for a longer period.

Source: Draft

Comment: The section requires the keeping of accurate books and records of contributions and expenditures.

§ 24.1-257. Election Reports to be Filed by Treasurer.—(a) The treasurer designated by a candidate shall file the report or statement of contributions and expenditures as prescribed in § 24.1-258 with the electoral board where the candidate resides and the State Board of Elections:

(1) No later than noon on the seventh day preceding any election and this report shall contain all contributions received or reported and expenditures made, reported or contracted for relative to the candidate's nomination or election, since the date of the last preceding election to fill the office for which he is a candidate; and

(2) No later than noon on the thirtieth day after the election or prior to taking office, whichever first occurs; and

(3) If any unpaid bills or deficits remain to be paid at the time the report or statement in subsection (2) above is filed, sixty (60) days after the election; and

(4) If any unpaid bills or deficits remain to be paid at the time the report or statement in subsection (3) above is filed, six months after the election; and

(5) If any unpaid bills or deficits remain to be paid at the time the report or statement in subsection (4) above is filed, one year after the election.

(b) It is the responsibility of the candidate and treasurer, jointly, to file the statement of a candidate and they shall file such report or statement in full and accurate detail.

Source: Draft

Comment: This section requires the filing of disclosure reports on a specific schedule. It should be noted that this section only covers matters done by the candidate or with his knowledge.

§ 24.1-258. Form of Report of Expenditures and Contributions.— The following is substantially the form of the report or statement of expenditures and contributions required by this chapter to be filed:

REPORT OR STATEMENT OF CAMPAIGN AND ELECTION CONTRIBUTIONS AND EXPENDITURES

I, _____, treasurer for _____, a candidate for the office of _____, do hereby certify that the following is a complete and accurate statement of the contributions received or reported and expenses discharged or contracted by or reported to me as of _____, 19_____.

Balance on Hand (from previous report or opening balance, whichever is applicable)	\$ _____
Receipts (from attached schedule)	\$ _____
Disbursements (from attached schedule)	\$ _____
Balance	\$ _____

Unexpected funds on hand upon filing of any report are deposited in _____, Account number _____.
(Name of Bank)

Obligations remaining unpaid as of the date of this report are as follows:

Amount	Name and Address	Purpose
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(Signature of Treasurer)

I, (we), the undersigned candidate(s), have examined the foregoing report, and the attachments hereto, and swear that the same are true to the best of my (our) knowledge, information and belief.

(Signature of Candidate)

Subscribed and sworn to (or affirmed) before me this _____ day of _____, 19_____.

(Notary Public or other person authorized to administer oaths)

The attached schedule of receipts shall include the number of contributors and total amount of contributions under fifty-one dollars. For

each contribution in excess of fifty-one dollars, give the name of the contributor, the address of the contributor, the amount of the contribution, and the date of the contribution.

The attached schedule of disbursements shall include the number of disbursements and total amount of those under fifty-one dollars. For all expenditures in excess of fifty-one dollars, give the name and address of the person paid, a brief description of the purpose of the expenditure, the name of the person contracting for or arranging such expenditure, the amount of the expenditures and the date of such expenditures.

Source: Draft

Comment: This section sets forth the forms for disclosure. It does require extensive detail except for those contributions and expenditures of \$50 or less.

§ 24.1-259. Advertisement by Person Other Than Candidate.—In the event that any person or persons contract for the publication of any writing, as defined in § 24.1-277, in any radio, television, newspaper, pamphlet or on bill boards or any other commercial enterprise for dissemination of information to the public, the persons operating such enterprise shall within five days of the receipt of such writing report to the State Board of Elections the name or names of the person or persons having contracted for such writing, their addresses and the amount of the cost or dollar value of such advertisement, if any. Failure of the person or persons operating such enterprise to report such information as required to the State Board of Elections shall be deemed guilty of a misdemeanor.

Source: Draft

Comment: This section requires report of those sponsoring ads of any kind other than those run by candidates. It places the burden on the media whose officers are the only persons with information concerning who is behind certain advertisement. The disclosure in this case would be to the State Board of Elections and while not ideal will bring into the light such ads and how much is being expended on behalf of a candidate. This section will offer a double check to the earlier section requiring those other than the candidate to report to the candidate's treasurer.

§ 24.1-260. Requirements of Election Reports.—No person shall be permitted to qualify for any office under the laws of this Commonwealth, or enter upon the duties thereof, or receive any salary or emoluments therefrom until he shall have filed the statements provided for in §§ 24.1-257 (1) and (2); and no officer authorized by the laws of this Commonwealth to issue certificates of election shall issue a certificate of election to any person claiming to be elected to any such office, until copies of such statements as aforesaid shall have been made and filed under oath, by such person with such officer.

Source: Draft

Comment: This section requires reports of the candidate before he can take office.

§ 24.1-261. Custody of Reports.—Every officer or board, with whom statements or accounts are required by any section of this article to be

filed, shall receive, file and preserve such statements or accounts in his office, and shall keep the same as part of the records thereof for at least one year after they are filed. And all such statements and accounts shall, during the hours for which the office in which they may be filed is open for business, be subject and open to inspection of any qualified voter, and copies of such statements or accounts certified by the principal administrative officer in whose office they may be so kept under the seal of his office shall be evidence in all the courts to the same extent as the original thereof would be if produced and proved.

Source: Draft

Comment: This section spells out such records are open for inspection and shall be kept for one year.

§ 24.1-262 (RESERVED)

§ 24.1-263 (RESERVED)

CHAPTER 10.

ELECTION OFFENSES, PENALTY.

§ 24.1-264. **Intimidation, Etc., of Election Officers.**—Any person who shall, by bribery, intimidation, or other means in violation of the election laws, wilfully hinder or prevent, or attempt to so hinder or prevent, the election officers at any precinct from holding an election at the time and place set apart and destined as a place for holding such election, shall be deemed guilty of a felony, and shall, upon conviction, be punished by confinement in the penitentiary for not less than one year nor more than fifteen years and by a fine not exceeding five thousand dollars, either or both, or, in the discretion of the jury or the court trying the case without a jury, by confinement in jail not less than one nor more than twelve months and by a fine not exceeding one thousand dollars, either or both.

Source: 24-191

Comment: The major change is to establish this crime as a felony and give a uniform, alternative penalty. This approach has been used throughout the chapter on felony penalties and it is felt the flexibility allowed by this will be helpful. The words “unlawful and corrupt means” have been replaced because of their vagueness.

§ 24.1-265. **Disturbance of Registrars.**—Any person or persons who shall, by threats, intimidation, abuse or force, hinder, delay, or disturb, or attempt to so hinder, delay, or disturb, any registrar in the discharge of his duties or any person in the process of registering or applying to register shall be deemed guilty of a misdemeanor.

Source: 24-116

Comment: Section has been broadened to cover a person offering to register and the vague term “or other unlawful means” dropped.

§ 24.1-266. **Wilfull Neglect or Corrupt Conduct.**—If any officer of election, member of an electoral board, messenger, or other person on whom any duty is enjoined by law relative to any election, be guilty of

any willfull neglect of such duty, he shall be deemed guilty of a misdemeanor and punished therefor as provided in § 18.1-9 or if he be guilty of any corrupt conduct in the execution of such duties, he shall be deemed guilty of a felony, and shall, upon conviction, be punished by confinement in the penitentiary not less than one nor more than 15 years and by a fine not exceeding five thousand dollars, either or both, or, in the discretion of the jury or the court trying the case without a jury, by a fine of not exceeding one thousand dollars, and by confinement in jail not exceeding twelve months, either or both.

Source: 24-212

Comment: The provisions of this section have been divided so that those concerning "willfull neglect" involve a misdemeanor and those concerning "corrupt conduct" involve a felony.

§ 24.1-267. Advice or Assistance in Casting Ballot.—Except as provided by § 24.1-132, no person shall directly or indirectly advise, counsel, or assist any elector, by writing, word, gesture or any other means as to how he shall vote or cast his ballot after the voter has entered the area within the prohibited area duly designated as set forth in § 24.1-101. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor.

Source: 24-237

Comment: This section has been broadened as to the means of seeking to obtain another person's vote and instead of only covering such attempt from the time when a person receives his ballot it will cover the whole time that a person is within the 100 feet area of polling place.

§ 24.1-268. Certain Voting Offenses.—If any person knowingly vote in any election district in which he does not actually reside, or in which he is not a registered voter, or vote more than once in the same election; or procure, and assist, counsel, or advise another to vote, knowing that such person is not duly qualified to vote where and when the vote is to be given; or at any time on election day prior to the determination of the vote fraudulently place a ballot in the box, he shall be deemed guilty of a misdemeanor.

Source: 24-450, 451

Comment: This section was drawn from the source sections but rewritten to shorten and make more concise. The commission felt the old section 24-450 contained too much and had to be broken up into a number of sections.

§ 24.1-269. Ballot Not to be Carried Away. -It shall be unlawful for any person to carry the official ballot, furnished him by the officer of the election, further than the voting booth, and should he, after inspecting such ballot, conclude not to vote, he shall immediately return such ballot to the officers of election. If any person carry an official ballot or copy thereof beyond the voting booth, or away from the booth, except to the officers of election, or vote any ballot except such as shall be received by him from the officers of election, he shall be deemed guilty of a misdemeanor.

Source: 24-236

Comment: Only substantive change has been to delete a requirement that placed a duty on the officer to arrest the person.

§ 24.1-270. Selling, Giving Away or Counterfeiting Ballots.—Any member of the electoral board or any designated agent of such board, the printer or his employees who shall print the official ballots provided for by this chapter, any officer of election, or any other person who shall sell or give to any person whomsoever, except where it is distinctly provided by this chapter, any official ballot or copy, any facsimile of or device or plate used to reproduce the same, or shall counterfeit, or attempt to counterfeit, the same or the seal used upon such official ballots shall be deemed guilty of a felony and shall, upon conviction, be punished by confinement in the penitentiary not less than one nor more than fifteen years and by a fine not exceeding five thousand dollars, either or both, or, in the discretion of the jury or the court trying the case without a jury, by a fine of not exceeding one thousand dollars and by confinement in jail not exceeding twelve months, either or both.

Source: 24-239

Comment: This section has been broadened to be all inclusive of ballot counterfeiting and made a felony instead of a misdemeanor.

§ 24.1-271. Offenses Against Person Receiving Ballot.—If any person by threats or bribery, attempts to influence any person in giving his vote or ballot or by such means attempts to defer him from giving his vote or ballot; or furnishes a ballot to a person who he knows cannot understand the language in which the ballot is printed, misinforming him as to the content of said ballot with an intent to deceive him and induce him to vote contrary to his desire; or fraudulently or deceitfully changes a ballot of a person thus preventing such person from voting as he desired, he shall be deemed guilty of a misdemeanor.

Source: 24-450

Comment: This section contains the balance of old section 24-450.

§ 24.1-272. Soliciting or Giving Bribe to Influence or Procure Vote.—No person shall solicit, request, or demand or accept, directly or indirectly any money or anything of value to influence his vote or to be used, or under the pretence of being used, to procure the vote of any person or persons, at any election. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor.

If any person, directly or indirectly, give or offer to a voter in any election any money, goods, or chattels under an agreement, express or implied, that such voter shall give his vote for a particular candidate, or for or against any question voted on at any such election, such person shall be deemed guilty of a misdemeanor.

Source: 24-405, 452

Comment: This has been broadened to cover accepting the bribe as well as soliciting it and will now cover any election. The second paragraph comes from old § 21-452 and covers the person giving a bribe.

§ 24.1-273. Defacing, Etc.; Records, Documents; Penalty.—Any person who shall be guilty of stealing, or of wilfully, fraudulently and wrongfully breaking, destroying, mutilating, defacing, falsifying, or unlawfully moving, securing, or detaining the whole or any part of any ballot box, records, books, papers, abstracts or any other matters, papers, or documents in any way used within the election process, or who shall

fraudulently make any entry erasure or alteration therein, or who shall fraudulently aid, abet or permit any other person to do so, shall be guilty of a felony and shall, upon conviction, be punished by confinement in the penitentiary not less than one nor more than fifteen years and by a fine not exceeding five thousand dollars, either or both, or, in the discretion of the jury or the court trying the case without a jury, by a fine of not exceeding one thousand dollars and by confinement in jail not exceeding twelve months, either or both.

Source: 24-404

Comment: This section has been broadened to cover the destroying, etc. of all books or records and also one person aiding another in doing such act. The penalty has been changed to felony.

§ 24.1-274. Penalties Prescribed.—Any person who aids or abets or attempts to aid or abet a violation of the election laws in connection with any vote cast, or to be cast, under the provisions concerning absent voters shall, upon conviction, be sentenced to the penitentiary for not less than one nor more than five years.

Any person attempting to vote by fraudulently signing the name of a regularly qualified voter shall be guilty of forgery.

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 shall connive 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.

Source: 24-345

Comment: No substantive change except to replace the word “fraud” with a clearer phrase.

§ 24.1-275. Voting Machines, Offenses and Penalties.—Any unauthorized person found in possession of any voting machine key or keys shall be deemed guilty of a misdemeanor.

Any person who wilfully tampers with or attempts to tamper with, disarrange, deface, or impair in any manner whatsoever, or destroy any such voting machine at any time or who instigates, aids or abets another person in such act or attempt, shall be deemed guilty of a felony and shall, upon conviction, be punished by confinement in the penitentiary not less than one nor more than fifteen years and by a fine not exceeding five thousand dollars, either or both, or, in the discretion of the jury or the court trying the case without a jury, by a fine of not exceeding one thousand dollars and by confinement in jail not exceeding twelve months, either or both.

Source: 24-318

Comment: The section has been broadened so the second paragraph covers the machines “at any time” and also covers any attempts to damage the machines.

§ 24.1-276. Publications not to receive compensation for advocating candidacy.—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 take, accept or receive, or agree to take, accept or receive, for himself or any other person, firm or corporation, either by himself or any other person or persons, firm or corporation, any money or other valuable consideration for such newspaper, magazine, or other periodical supporting or advocating the election or defeat of any candidate or candidates at any election. Any such owner, proprietor, editor, manager, officer, clerk, agent, reporter, or employee of any newspaper, magazine or other periodical violating the provisions of this section shall be deemed guilty of a misdemeanor. But nothing in this section shall prevent any person or persons, firm or corporation engaged in the publication of any newspaper, magazine or periodical from receiving from any person for publication and publishing any matter, article or articles advocating the election or defeat of any candidate or candidates and receiving from such person a compensation therefor, if such articles so published or printed have placed at the beginning thereof in plain type in black face Roman capitals in a conspicuous place the statement "Paid Advertisement" and comply with the provisions of § 24.1-277.

Source: 24-406

Comment: Section has been broadened to cover all elections instead of just primaries. A proviso has been added by which will require identification of those using publication, for ads.

§ 24.1-277. Writings Concerning Candidates for Office to Identify Person Responsible Therefor.—(1) As used in this section "writing" means any pamphlet, poster, card, circular, book, dodger, flyer, banner, handbill, picture, or any other written, printed or otherwise reproduced statement or advertisement of any class or description.

(2) It shall be unlawful for any person to cause any writing to appear concerning any candidate for any office elective by the qualified voters unless such writing plainly identifies the person responsible therefor and, where the writing is caused by a candidate, carries the statement "by authority of _____, duly designated Treasurer of _____ (name); or where the writing is not caused by a candidate, the person causing the writing shall be identified by full name and address on the writing.

(3) It shall be unlawful for any person to use a false or fictitious name or address on any such writing described in the preceding paragraph.

(4) Any person violating any provision of this section shall be deemed guilty of a misdemeanor.

Source: 24-456

Comment: This section has been rewritten to more clearly require identification of all advertisements.

§ 24.1-278. 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 the same, they shall, upon conviction, be punished by confinement in the penitentiary not less than one nor more than ten years and by a fine not exceeding

five thousand dollars, either or both, or, in the discretion of the jury or the Court trying the case without a jury, by a fine of not exceeding one thousand dollars and by confinement in jail not exceeding twelve months, either or both.

Source: Title 18 § 241 U.S.C.

Comment: The above is partially taken from the Federal Code provision governing conspiracy under which certain persons in southwest Virginia were convicted of conspiracy in relation to absentee ballots. It has been submitted to the Attorney General and approved in form by letter dated February 7, 1969.

§ 24.1-279. **Perjury.**—Any wilfully false, fraudulent, or misleading statement or entry made by any candidate for office, treasurer, or sub-treasurer in any statement or account under oath required by this chapter, shall constitute the crime of perjury, and be punishable as such according to the laws of this Commonwealth.

Source: Draft

Comment: This spells out statements carrying penalty of perjury.

§ 24.1-280. **Penalties When Not Specifically Provided Elsewhere.**—Any violation of the provisions of this title, for which no punishment has been otherwise provided, shall be deemed a misdemeanor.

Source: 24-455

Comment: It is intended that the misdemeanor penalties provided in § 18.1-9 will apply here and to all other references in this Chapter.

§ 24.1-281. **Witnesses Giving Evidence to be Immune From Prosecution.**—No witness required to give and giving evidence before a grand jury or in a criminal proceeding in a court of record in compliance with a subpoena issued by direction of such grand jury or attorney for the Commonwealth, respectively, under the sections of this chapter shall ever be proceeded against for any offense made penal by any of such provisions, or any of the other election laws of this Commonwealth, committed by him at or in connection with the same election, primary, or convention.

Source: 24-449

Comment: No substantive change.

3. This act shall be in force on and after December one, nineteen hundred seventy.

Comment: It was the opinion of the Commission that the effective date of the revisions should be such as to not disrupt the election process. With an effective date of December 1, it will come after the fall elections but well before the Spring, 1971, municipal elections and their primaries.