

**REPORT OF THE  
JOINT SUBCOMMITTEE STUDYING**

# **Certain Revisions in Election Laws**

**TO THE GOVERNOR AND  
THE GENERAL ASSEMBLY OF VIRGINIA**



## **Senate Document No. 19**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1986**



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**Report of the  
Joint Subcommittee Studying  
Certain Revisions in Election Laws  
To  
The Governor and the General Assembly of Virginia  
Richmond, Virginia  
January, 1986**

To: The Honorable Gerald L. Baliles, Governor of Virginia,  
and  
The General Assembly of Virginia

The Joint Subcommittee has reviewed a variety of proposals for changes in the Commonwealth's election laws pursuant to the provisions of Senate Joint Resolution No. 92 of the 1985 General Assembly. See, Appendix B. (Note: Appendix A contains the Joint Subcommittee's proposals for legislation to be introduced at the 1986 Session.)

At its organizational meeting on May 16, 1985, the Joint Subcommittee invited interested individuals and groups to submit written proposals for election law revisions for Subcommittee consideration. The Staff summary of September 5, 1985, of these submissions is attached as Appendix C. At a public hearing held on September 10, 1985, in Richmond, 26 speakers addressed the Joint Subcommittee.

Proposals for change submitted prior to and at the September 10 hearing and suggested by members of the Joint Subcommittee revolved around several areas of concern that are addressed in this Report:

- I. Pending Constitutional Amendments
- II. Proposals Concerning Registration
- III. Election Officials
- IV. Nominating Procedures
- V. Miscellaneous

**APPENDICES**

## **I. Pending Constitutional Amendments**

During its 1985 Session, the General Assembly proposed two amendments to the Virginia Constitution (H.J.R. No. 341, Ch. 591, 1985 Acts of Assembly) that affect elections: the first would modify the automatic purge requirements of Article II, Section 4, so that a person, who has not voted in four years and continues to live at the address on the registration records, could maintain his registration by responding in writing that he desires to do so; and the second would remove the prohibitions in Article II, Section 8, that prevent government employees from serving as assistant registrars and officers of election.

These proposed amendments passed with substantial majorities in the House (89-3) and Senate (34-3) in 1985. General support has been expressed in the submissions to the Subcommittee for the passage of these two constitutional amendments. The Joint Subcommittee endorses both proposals.

With regard to the automatic purge revision, the Joint Subcommittee believes that the present annual purge from registered voter records of those voters who have not voted in four years serves a sound purpose: by removing from the records voters who have moved or died, the purge keeps the records up-to-date and reduces the opportunities for election fraud. The proposed amendment can be compatible with this purpose and will allow a voter who has not moved to maintain his registration by mail even if he has failed to vote in four years.

With regard to allowing government employees to be appointed assistant registrars and officers of election, the Joint Subcommittee believes that the objective of the present Constitution is preserved so long as elected officials and their employees continue to be ineligible to serve as election officials. The proposed amendment has two benefits; first, it will be easier in many jurisdictions to find election day officers if government employees are allowed to serve; and second, the possible use of government offices other than the registrar's office as registration sites promises to provide expanded opportunities for registration.

Four items of legislation are proposed: first, a joint resolution to show a second General Assembly's endorsement of the amendment; second, a bill to submit the proposed amendments to the voters for their approval in November 1986; third, a bill to spell out how a voter may retain his registered status although he has not voted in four years, and fourth, a bill to implement the proposed change on the appointment of government employees as assistant registrars and election day officers.

These four pieces of legislation are carried as Items 1 through 4 in Appendix A. Item 1, the joint resolution, simply confirms that a second General Assembly approves the proposed amendment and the language of the amendment is identical to the language in the 1985 Resolution.

Item 2 is the bill to submit the amendments to the voters for their approval at the November 1986 election and it provides for the effective dates of the constitutional changes.

The Joint Subcommittee endorses the concept that legislation to implement these changes should be introduced this Session. The General Assembly will be able then to consider the amendment and how it will be implemented at the same time and have a full understanding of the impact of the proposed changes. Item 3 sets out the procedure whereby a voter who would otherwise be purged from the registration records will be able to respond in writing to a notice mailed by the State Board of Elections and maintain his registered status. Practically this change means he will not need to go in person to register again. His response must be witnessed and returned in a timely manner. False information will be treated as perjury. The Subcommittee believes this legislation will avoid opportunities for election fraud. If the public approves the constitutional amendment at the November 1986 election, this bill and the constitutional change will take effect July 1, 1987, so that the purge of the records following the 1986 general election will be completed under present law.

Item 4 implements the amendment to allow the appointment of government employees to serve as assistant registrars or officers of election. This constitutional amendment is self-executing in its lifting of the prohibition on such appointments. The amendment to § 24.1-33 conforms this Code section to the language of the constitutional amendment. With this change it

will be possible for local election boards to appoint a person who is a government employee to serve as an officer of election and increase the pool for appointing election day officials. It will also be possible for the general registrar to appoint a government employee to serve as a paid or unpaid assistant registrar.

A new § 24.1-45.2 is also proposed which will allow the setting of registration sites in government offices other than the general registrar's office and the appointment of other agency employees to serve as assistant registrars. There must be an agreement between the general registrar and the agency head and these assistants would have to have the qualifications and training now required by law for assistant registrars.

The effective date of the constitutional amendment and these statutory changes will be January 1, 1987, provided the public approves the amendment at the November 1986 election.

## **II. Proposals Concerning Registration**

Both the proposed constitutional changes will have an impact on the Commonwealth's registration system: first, by opening up new opportunities for convenient, accessible registration sites and furthering the cooperation that already exists between election officials and other government agencies (see, Appendix D), and second by making it possible for a voter who has failed to vote in four years to remain registered without having to go in person to the registrar's office.

Many other proposals were supported in submissions to the Joint Subcommittee that would further alter the Commonwealth's registration system. The basis for many of the proposals is the assertion that Virginia registers a lesser percentage of its voting age population than other states. The use of such data, particularly for state-state comparisons, is suspect as the material from highly respected independent election experts in Appendix E demonstrates.

One reason why comparisons based on voting and registration data must be treated cautiously are the so-called "numerator" problems involved. There is agreement among experts that registered voter figures in particular are difficult to compare because they usually rely upon figures reported by each state and the states differ significantly in the way they maintain registration records and aggregate registration totals. Virginia, as one of a handful of states with a centralized computer registration system, is regarded as highly accurate in its registration figures. Other states which rely upon records maintained and reported from the county or even local precinct level registrars are less reliable. Another source of registration data, the United States Bureau of the Census, utilizes a survey sample in its biennial report on registration which is of necessity subject to some sampling error.

The use of votes cast as a basis for comparison also must be critically examined. The most frequently cited figure, that of votes cast for President, underestimates the actual election day participation. Appendix E, for example, shows that 2,146,635 Virginia voters cast votes in the 1984 presidential election. The total vote cast in Virginia in 1984, however, was 2,180,515. The difference between presidential and total votes cast obviously may vary from state to state, depending upon the interest in other state and even local contests and other factors.

Perhaps more serious are "denominator" problems, that is, the base used to calculate the eligible voter pool. It is agreed that the decennial census count of total voting age population cannot appropriately be used throughout the ensuing decade because of variations in population growth among states. The generally accepted base, therefore, is the Bureau of the Census periodic estimate of voting age population. These data as estimates are subject to some error. More importantly, voting age population, whether counted in the decennial census or estimated thereafter, does not take into account those who are actually eligible to register and vote. The size of this group obviously varies from state to state. It logically is a factor, for instance, in the rankings of states such as New York, Florida, California, and the Southwest states where non-citizen populations tend to be high. The result of these problems and variations for a comparison of registration and voting is illustrated in Appendix E. Maine, Mississippi and Michigan rank 1st, 2nd and 3rd in the percentage of voting age population registered to vote, but then rank 2nd, 31st and 15th in the percentage of voting age population who actually vote and 39th, 50th, and 46th in the percentage of registered voters voting.

Virginia has been ranked 44th among the 50 states in terms of the percentage of voting age population registered to vote, but 5th in terms of the percentage of registered voters actually voting and 38th in terms of the percentage of voting age population voting. See, Appendix E. It is worth noting that the national average for voter turnout as a percent of voting age population is 53.25% compared to Virginia's 51.07%. With allowance for statistical error, Virginia may be at the national norm. The rankings can change sharply with slight percentage changes. An increase of less than one percent in turnout of voting age population, for example, would have moved Virginia up seven places in rank.

The fact is that there are many variables which affect state voter participation independent of legal requirements. Voter registration and election laws generally have been found to be of decreasing importance as states become more similar in areas such as the elimination of long residence requirements, the setting of similar dates in most states for the close of registration prior to election, and the like. On the other hand, socio-economic factors such as education and income levels have been associated with participation and states clearly differ in these characteristics. The simple extent of electoral competition and party activity in a state also can be a factor in stimulating participation.

One important factor that can affect the ranking of a state in terms of the percentages of voting age population who vote and who register is the mobility of the state's population. This is the conclusion of Raymond E. Wolfinger, University of California, Berkeley, who has pointed out that

"In 1980, only 48 percent of Americans who had moved within two years voted, compared to 65 percent of those who had lived in the same place longer.... In short, movers do not face legal obstacles to registering, but establishing their eligibility to vote takes a back seat to the many things that must be done when trying to settle in a new home."

Population mobility is highly relevant to the Virginia situation. According to the Bureau of the Census Statistical Abstract of the United States, 1984, Table 16, Virginia is 7th nationally among the states in terms of mobility when movers to a different state and to a different county within the state are combined. Virginia ranks 15th in terms of movers from a different state and first in terms of movers from one political jurisdiction to another within the same state. The large military population and the proximity to Washington may account for the fact that Virginia is characterized by the most mobility of any state outside the mountain and Pacific regions.

The Joint Subcommittee believes that more fundamental factors than superficial rankings need to be weighed in determining whether to alter registration practices: first, the present registration system has worked well to eliminate fraud and assure public confidence in elections; second, there has been a series of recent changes to increase and expand registration opportunities; and third, there should be continued emphasis on promoting voter registration and turnout by the political parties, election officials and public groups.

The specific proposals that have been examined by the Joint Subcommittee and its recommendations are as follows:

**A. Mail registration.**

The Joint Subcommittee does not recommend a constitutional amendment to eliminate the requirement that persons must register in person. This requirement serves as an important check against fraudulent registration and the institution of registration by mail has not been proved to increase voter turnout. See Appendix E which shows that of the 22 jurisdictions with mail registration 13 are above and 9 are below the midpoint in rankings for voter turnout as a percent of voting age population.

**B. Statewide registration.**

The Joint Subcommittee does not recommend changes in the law to allow a resident of Virginia to register in any county or city in the Commonwealth. The administrative problems and costs of statewide registration are not offset by any demonstrable benefit to prospective registrants. The most likely beneficiaries of statewide registration are college students, but concrete efforts to register students are already being made at the high school level. See Appendix F.

### C. Contiguous jurisdiction registration.

The present law permits residents of one locality to file their registration applications in a contiguous jurisdiction. Commuters and prospective registrants generally have benefitted from the convenience and increased opportunity to register this change has provided. The Joint Subcommittee recommends two refinements in this area to strengthen these provisions: first, an amendment to cover residents of cities such as Manassas or Staunton that are surrounded by one county so that they will be able to file registration applications in the jurisdictions contiguous to the surrounding county, and second, an amendment to provide that the transfers of applications among contiguous jurisdictions will be done in accordance with written instructions of the State Board of Elections to avoid problems that might otherwise occur on the last days to register before the books are closed in advance of an election. This legislation is contained in Item 5 in Appendix A.

### D. Extended time for registration prior to election.

The suggestion has been made to keep the registration books open up until 10 or 20 days rather than 30 days prior to an election because public interest intensifies as the election gets closer in time. The Joint Subcommittee believes this matter deserves further consideration in light of the present study being conducted of the State Board's procedures and possible local printing of registration rosters. Any reduction in the 30-day period must be accompanied by administrative changes since the present 30-day period is required to have the registration rosters in order and available for local use on election day. See Appendix G for the current schedule followed in preparing local registration rosters. Also included in Appendix G is the Table provided in the Book of the States showing 30 days to be the most typical period the registration books are closed. Of the 11 states with central registration systems only Delaware (10 days) and Iowa (10 days) close books closer to election day than Virginia.

### E. Additional registration times and sites.

A number of steps to increase voter registration opportunities have been authorized either by statute or through the Appropriations Act in recent years. Examples include the use of volunteer assistant registrars, extended times and places of registration in the period prior to the closing of the books, and full-time office hours for registrars during a good portion of the year. The Joint Subcommittee received several proposals to expand or further mandate this approach to registration. It is the judgment of the Joint Subcommittee that such steps are neither wise nor necessary. They involve the risk of lessening control over registration procedures by those officials who have the responsibility of ensuring the integrity of the process, or of imposing additional service requirements on officials which often would not be justified by the circumstances. We believe that the additional registration opportunities which would be available under the proposed constitutional amendments and implementing statutes will obviate any need for changes of the type which were proposed.

## III. Election officials

The Joint Subcommittee submits the following recommendations concerning local election officials:

### A. Local supplements for general registrars.

Localities should be authorized to supplement the salaries of general registrars by an amount not to exceed 10% of the state salary scale. The Joint Subcommittee recognizes that there is a need for some flexibility to take into account the variety of local conditions and of pay scales for the registrars' assistants. This optional 10% supplement, coupled with the present cost-of-living adjustment for certain localities, should ensure sufficient flexibility to permit a fairer compensation arrangement for the general registrars. See Appendix A, Item 5.

### B. Status of local election officials.



The law should be amended to provide liability insurance and representation by counsel for the electoral boards and general registrars. The Joint Subcommittee recommends that these officials be covered under the state insurance plan and self-insurance program, subject to the Tort Claims Act, and be represented by the attorneys for the Commonwealth in civil matters. The present status of these officials is unclear and the subject of litigation. Conflicting opinions of the Attorney General and local counsel have resulted in some instances in these officials being left without coverage or representation. See Appendix A, Item 5. See Appendix H for background material on these issues.

### C. Conflicts and Nepotism.

The Joint Subcommittee proposes amendments to eliminate two problems brought to its attention:

1. members of electoral boards should not seek office while serving on the board. Legislation to require a board member to resign to run for office is recommended. Appendix A, Item 5.

2. the issue of nepotism should be addressed clearly in state law with regard to the appointment of the general registrar by the electoral board and assistant registrars by the general registrar. Appendix A, Item 5.

## IV. Nominating Procedures

The Joint Subcommittee reviewed the following matters concerning nominating procedures for the Presidency and other elective offices:

### A. Southern regional primary/delegate selection plan.

The proposal of the Southern Legislative Conference that the 15 states in the South act simultaneously in nominating Presidential candidates will give the region more voice in the selection of Presidential candidates and gain the attention of national candidates for consideration of issues important to the region. See Appendix I. The Joint Subcommittee recommends enactment of legislation to permit Virginia to participate with other southern states in an early March regional primary/delegate selection program. Virginia would select its national convention delegations by state party conventions held on the second Saturday in March. This legislation would take effect only if 12 other southern states join with Virginia in the program. See Appendix A, Item 6.

### B. Primaries for statewide office.

The Joint Subcommittee has taken under consideration a proposal to permit a prospective party candidate for statewide office to call for a primary in the event the party does not call for a primary. See Appendix J.

This matter should be studied during 1986. See Appendix A, Item 8.

### C. Precinct representation at party conventions.

In order to promote broadbased participation in party nominating processes, the Joint Subcommittee believes that consideration should be given to making the precinct the unit of representation for selecting convention delegates and for assuring each precinct at least one voting delegate. See Appendix K.

This matter should also be studied during 1986. See Appendix A, Item 8.

## V. Miscellaneous.

The Joint Subcommittee submits the following recommendations on other matters brought to its attention:

**A. Change of polling places in cases of emergency.**

The Joint Subcommittee recommends that the State Board of Elections and local electoral boards should be given explicit statutory authority to act in emergencies when polling places may become inaccessible or unusable and alternative facilities must be provided. The experience during flooding in the November 1985 general election demonstrated that it is possible to deal effectively with emergencies. Twenty-two polling places were moved because of the flooding. There should be explicit statutory authority to act in case of such emergencies. See Appendix A, Item 5.

**B. Procedures to approve voting equipment.**

The Joint Subcommittee proposes revising the present law that spells out procedures to be followed before new types of voting equipment are approved for use. There is a definite need to use careful review and testing procedures before new equipment is approved for use in elections to avoid election day problems. See Appendix A, Item 5.

**C. Campaign fund report filings.**

The Joint Subcommittee recommends several changes in § 24.1-257 concerning the filing of campaign fund reports. First, the law should be amended to set out the schedule for filings before and after a June primary by dates rather than periods of time. The schedule recommended is as follows: May 1 and June 1 before the June primary and July 15 and August 15 after the June primary. Second, a nominee should be allowed to use the same fund for contributions to his campaign to win nomination and his campaign to win election without having to set up separate funds or to file a final report closing out the account on his campaign for nomination. Third, the requirement that a report be filed at the time of declaring as a candidate for nomination or election should be deleted because the time for declaring candidacy can vary and can conflict with the overall reporting schedule. Finally, unopposed candidates for nomination should not be required to file the report required to be filed on the eighth day prior to a convention or nomination. See Appendix A, Item 5.

**D. Local redistricting.**

The Joint Subcommittee recommends that local redistricting should take place each ten years, but not more frequently. Mid-decade, optional redistrictings can result in unnecessary uncertainty for the electorate and be disruptive of local planning and governing activities. See Appendix A, Item 7.

**E. Further study.**

The Joint Subcommittee has concluded many aspects of its study. Several matters merit further consideration such as the proposals affecting nominating processes and the ongoing study at the State Board of Elections concerning the period of time registration books must be closed. Therefore, a continuing study resolution is recommended. See Appendix A, Item 8.

Respectfully submitted,

Hunter B. Andrews, Chairman

Owen B. Pickett, Vice Chairman

John C. Buchanan

William T. Parker

Wiley F. Mitchell, Jr.\*

Mary A. Marshall

V. Earl Dickinson

**William T. Wilson**

**Clinton Miller**

**C. Jefferson Stafford\***

**John Watkins\***

**\* Dissenting statements follow this report.**

### **DISSENTING STATEMENT OF SENATOR WILEY F. MITCHELL, JR.**

I do not concur with the recommendations of the Joint Subcommittee Studying Election Laws in two respects.

1. Although the idea of a Southern Regional Primary has superficial appeal, I remain to be convinced that the early March date advocated by the proponents will promote either broader or more informed participation by Virginia voters.
2. The proposal to restrict local redistricting to a standard 10 year cycle flies squarely in the face of the "one man, one vote" predicate upon which our current electoral districts are based and, in so doing, ignores the reality of the massive population shifts which are occurring in some of the more rapidly growing areas of the State. If this unwise recommendation is approved by the General Assembly, I hope that it will receive very careful and critical scrutiny by the Federal Department of Justice. There is nothing sacrosanct about 10 year reapportionment cycles and, because significant population shifts from one electoral district to another can create gross inequities at the local level, current law wisely permits local governments to make the adjustments necessary to eliminate such inequities. Depriving local governments of the ability to use this tool at intervals of less than 10 years is constitutionally suspect and certainly violates the spirit, if not the letter, of the Federal Voting Rights Act.

### **DISSENTING STATEMENT OF DELEGATE C. JEFFERSON STAFFORD**

I concur in the recommendations of the Subcommittee with one exception. I do not believe that the Constitution of Virginia should be amended or that legislation should be enacted that will allow any government employee or officer (whether elected or not) to be appointed an assistant voter registrar.

### **DISSENTING STATEMENT OF DELEGATE JOHN WATKINS**

I concur in the recommendations of the Subcommittee except that I dissent on the recommendations concerning the Southern regional primary/delegate selection proposal and local redistricting limitations.

## **APPENDICES**

### **A. Proposed legislation**

- 1. Constitutional Amendments: Resolution**
- 2. Constitutional Amendments: Popular Referendum**
- 3. Implementing Purge Amendment**
- 4. Implementing Election Official Amendment**
- 5. Various election law revisions, including provisions on contiguous jurisdiction registration, local supplements for general registrars, insurance coverage and representation of election officials, conflicts and nepotism provisions election officials, emergency changes in polling places, procedures for approving new electronic voting systems and filings of campaign finance reports**
- 6. Southern regional primary/delegate selection plan**
- 7. Local redistricting**
- 8. Continuing study resolution**

### **B. Senate Joint Resolution No. 92.**

### **C. Summary (9/5/85) of proposals submitted to the Subcommittee.**

### **D. Letters concerning DMV registration and voter turnout and explanations.**

### **E. Statistics of registration and voter turnout and explanations.**

### **F. Report of State Board of Elections on statewide registration proposal.**

### **G. Data concerning period registration books are closed.**

### **H. Status of local election officials.**

### **I. Background on regional presidential primary.**

### **J. Draft bill on an individual call for a primary.**

### **K. Draft bill on precinct representation at party nominating conventions.**

## APPENDIX A

### ITEM #1

#### HOUSE JOINT RESOLUTION NO.....

Proposing amendments to Sections 4 and 8 of Article II of the Constitution of Virginia, relating to powers and duties of the General Assembly with respect to registration, voting, elections and election officials.

WHEREAS, proposed amendments to the Constitution of Virginia, hereinafter set forth, were agreed to by a majority of the members elected to each of the two houses of the General Assembly at the regular session of 1985 and referred to this, the next regular session held after the 1985 general election of members of the House of Delegates, as required by the Constitution of Virginia; now, therefore, be it

RESOLVED by the House of Delegates, the Senate concurring, That the following amendments to the Constitution of Virginia be, and the same hereby are, proposed in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Sections 4 and 8 of Article II of the Constitution of Virginia as follows:

### ARTICLE II

#### FRANCHISE AND OFFICERS

Section 4. Powers and duties of General Assembly.—The General Assembly shall establish a uniform system for permanent registration of voters pursuant to this Constitution, including provisions for appeal by any person denied registration, correction of illegal or fraudulent registrations, proper transfer of all registered voters, and cancellation of registrations in other jurisdictions of persons who apply to register to vote in the Commonwealth. The General Assembly shall provide for maintenance of accurate and current registration records and shall provide for cancellation of the registration of any voter who has not voted at least once during four consecutive calendar years *and who fails to return a written response indicating a desire to remain registered at the residence address currently on record in response to a notice of pending cancellation* .

The General Assembly may provide for registration and voting by absentee application and ballot for members of the Armed Forces of the United States in active service, persons residing temporarily outside of the United States by virtue of their employment, and their spouses and dependents residing with such persons, who are otherwise qualified to vote, and may provide for voting by absentee ballot for other qualified voters.

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

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

Each electoral board shall appoint the officers ~~and registrars~~ of election *and general*

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

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

**APPENDIX A**

**ITEM #2**

**SENATE BILL NO. .... HOUSE BILL NO. ....**

**A BILL to provide for the submission to the voters of proposed amendments to Sections 4 and 8 of Article II of the Constitution of Virginia, relating to powers and duties of the General Assembly with respect to registration, voting, elections and election officials.**

Be it enacted by the General Assembly of Virginia:

1. § 1. It shall be the duty of the officers conducting the election directed by law to be held on the Tuesday after the first Monday in November, 1986, at the places appointed for holding the same, to open a poll and take the sense of the qualified voters upon the ratification or rejection of the proposed amendments to the Constitution of Virginia, contained herein and in the joint resolution proposing such amendments, to wit:

Amend Sections 4 and 8 of Article II of the Constitution of Virginia as follows:

**ARTICLE II**

**FRANCHISE AND OFFICERS**

**Section 4. Powers and duties of General Assembly.**—The General Assembly shall establish a uniform system for permanent registration of voters pursuant to this Constitution, including provisions for appeal by any person denied registration, correction of illegal or fraudulent registrations, proper transfer of all registered voters, and cancellation of registrations in other jurisdictions of persons who apply to register to vote in the Commonwealth. The General Assembly shall provide for maintenance of accurate and current registration records and shall provide for cancellation of the registration of any voter who has not voted at least once during four consecutive calendar years *and who fails to return a written response indicating a desire to remain registered at the residence address currently on record in response to a notice of pending cancellation* .

The General Assembly may provide for registration and voting by absentee application and ballot for members of the Armed Forces of the United States in active service, persons residing temporarily outside of the United States by virtue of their employment, and their spouses and dependents residing with such persons, who are otherwise qualified to vote, and may provide for voting by absentee ballot for other qualified voters.

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

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

Each electoral board shall appoint the officers ~~and registrars~~ of election *and general registrar* for its county or city. In appointing such officers of election, representation, as far as practicable, shall be given to each of the two political parties which, at the general election next



preceding their appointment, cast the highest and next highest number of votes.

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

§ 2. The ballot shall contain the following two questions:

Question: Shall the Constitution of Virginia be amended to allow any registered voter, who has not voted in four years, to continue to be registered if he so requests in writing and still lives at the address listed on the registration records?

Yes

No

Question: Shall the Constitution of Virginia be amended to allow government employees, except those who are elected or those who are employed by an elected official, to be appointed assistant voter registrars or officers of election?

Yes

No

The ballots shall be prepared, distributed and voted, and the results thereof ascertained and certified, in the manner prescribed by § 24.1-165 of the Code of Virginia. The State Board of Elections shall cause to be sent to the clerks of each county and city, at least thirty days before the election, a copy of this act. Each such clerk shall forthwith post a copy of such act at the courthouse of such county or city. The State Board of Elections shall cause to be sent to the electoral boards of each county and city sufficient copies of the full text of the amendments and questions contained herein for the officers of election to post in each polling place on election day.

The electoral board of each county and city shall make out, certify and forward an abstract of the votes cast for and against such proposed amendments in the manner now prescribed by law in relation to votes cast in general elections.

The State Board of Elections shall open and canvass such abstracts and examine and report the whole number of votes cast at the election for and against such amendments in the manner now prescribed by law in relation to votes cast in general elections. The State Board of Elections shall record a certified copy of such report in its office, and without delay make out and transmit to the Governor an official copy of such report, certified by it. The Governor shall, without delay, make proclamation of the result, stating therein the aggregate vote for and against each such amendment.

If a majority of those voting vote in favor of the amendment to Article II, Section 4, it shall be effective on and after July 1, 1987. If a majority of those voting vote in favor of the amendment to Article II, Section 8, it shall be effective on and after January 1, 1987.

The expenses incurred in conducting this election shall be defrayed as in the case of election of members of the General Assembly.

APPENDIX A

ITEM #3

SENATE BILL NO. .... HOUSE BILL NO. ....

A BILL to amend and reenact § 24.1-59 and to repeal § 24.1-22.1 of the Code of Virginia, relating to notification of and procedures for annual purge of voter registration rolls.

Be it enacted by the General Assembly of Virginia:

1. That § 24.1-59 of the Code of Virginia is amended and reenacted as follows:

~~§ 24.1-59. Annual purge of registration rolls; notice to voters whose names are to be purged.— As of December 31, 1974, and annually A. For the year 1987 and each year thereafter, the name of any State Board of Elections shall mail to each 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 four years.~~

~~The registrar shall send a notice by mail, the cost of which shall be paid by the local governing body, to the last known address of each voter whose name is purged pursuant to the provisions of this section. Failure to mail such notice shall not affect the validity of such purge. a notice, sent to his address on the registration books, that his name will be removed from the registration books if he does not affirm on an enclosed return form that he desires to remain registered and continues to reside at the address shown on the enclosed form.~~

~~B. The form shall be signed, in the presence of one subscribing witness, by the registrant who shall subscribe the same and vouch under the penalty of perjury that the information given is true and correct. The return form must be postmarked no later than January 10 in order for the registered voter to remain on the registration books. Any registrant so affirming and returning the form shall remain registered as long as he votes at least once in each four consecutive years thereafter. The name of any voter who does not so return the request to remain registered shall be removed from the registration books by the general registrar. Failure to receive the notice shall not affect the validity of the purge of the books for not voting in four consecutive years.~~

~~C. The notice of purge shall be mailed by first class postage "Do Not Forward" by the State Board of Elections prior to December 31 in each calendar year. All returned forms for requests to remain registered shall be forwarded to the general registrars immediately upon receipt by the State Board of Elections.~~

~~D. If a special election is held between the day of the November general election and the end of any calendar year, the purge notices will be mailed to registrants in the counties and cities holding such election after the special election. In such cases, the voter's request to remain registered must be postmarked not more than ten calendar days from the date the notice is mailed in order to be valid.~~

2. That § 24.1-22.1 of the Code of Virginia is repealed.

3. That the provisions of this act shall be effective on and after July 1, 1987, provided that the amendment to Article II, Section 4, of the Constitution of Virginia first proposed in 1985 in House Joint Resolution No. 341 (Chapter 591, 1985 Acts of Assembly) is approved by the voters at the November 1986 general election.

**APPENDIX A**

**ITEM #4**

**SENATE BILL NO. .... HOUSE BILL NO. ....**

**A BILL to amend and reenact § 24.1-33 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 24.1-45.2, relating to eligibility for appointment as member of electoral board, registrar or officer of election; registration at government offices.**

Be it enacted by the General Assembly of Virginia:

1. That § 24.1-33 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 24.1-45.2 as follows:

*§ 24.1-33. Restrictions on persons holding other offices serving as member of board, registrar or officer of election.—No person, nor the deputy of any person, who is employed by or holds any office or post of profit or emolument, or who holds any elective office of profit or trust, under the governments of the United States, the Commonwealth, or any county, city, or town, shall be appointed a member of the electoral board or general registrar or an officer of election . No person, nor the deputy or the employee of any such person, who holds any elective office of profit or trust under the government of the United States, the Commonwealth, or any county, city, or town of the Commonwealth, shall be appointed an assistant registrar or officer of election.*

*§ 24.1-45.2. Registration sites at government offices.—The general registrar shall be authorized to set additional sites and times for registration in local or state government agency offices within his jurisdiction subject to the approval of, and pursuant to an agreement with, the head of the government agency. Such an agreement may provide for the appointment of employees of the agency to serve as assistant registrars, in which case the agreement shall be in writing and approved by the local electoral board prior to implementation.*

*Such assistant registrars shall be subject to the provisions of § 24.1-45.*

2. That the provisions of this act shall be effective on and after January 1, 1987, provided that the amendment to Article II, Section 8, of the Constitution of Virginia first proposed in 1985 in House Joint Resolution No. 341 (Chapter 591, 1985 Acts of Assembly) is approved by the voters at the November 1986 general election.

**APPENDIX A**

**ITEM #5**

**SENATE BILL NO. .... HOUSE BILL NO. ....**

**A BILL to amend and reenact §§ 2.1-526.8, 24.1-43, 24.1-46, 24.1-97 and 24.1-257 of the Code of Virginia, to amend the Code of Virginia by adding sections numbered 24.1-31.1, 24.1-33.1, 24.1-33.2, 24.1-45.1 and 24.1-206.3, and to repeal § 24.1-206.2 of the Code of Virginia, relating to insurance for certain election officials and to election officials and revisions in the election laws of the Commonwealth.**

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-526.8, 24.1-43, 24.1-46, 24.1-97 and 24.1-257 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding sections numbered 24.1-31.1, 24.1-33.1, 24.1-33.2, 24.1-45.1 and 24.1-206.3, as follows:

§ 2.1-526.8. Insurance plan for public liability.—A. Subject to the approval of the Governor, the Department of General Services through its Office of Risk Management shall establish an insurance plan, which may be purchased insurance, self-insurance or a combination of self-insurance and purchased insurance to provide protection against liability imposed by law for damages resulting from any claim made against any department, agency, institution, board, commission, officer, agent, or employee thereof for acts or omissions of any nature while acting in an authorized governmental or proprietary capacity and in the course and scope of employment or authorization, and to further provide protection against tort liability and incidental medical payments arising out of the ownership, maintenance or use of buildings, grounds or properties owned or leased by the Commonwealth or used by state employees or other authorized persons in the course of their employment.

B. Any insurance plan established pursuant to this section shall provide for the establishment of a trust fund or contribution to the State Insurance Reserve Trust Fund for the payment of claims covered under such plan. The trust fund shall also provide for payment of administrative costs, contractual costs, and other expenses related to the administration of such plan.

C. The insurance plan for public liability shall be submitted to the Governor for approval prior to implementation.

D. [Repealed.]

*E. The state insurance plan shall provide protection against liability imposed by law for damages resulting from any claim made against a local electoral board, electoral board member or general registrar for acts or omissions of any nature while acting in an authorized governmental or proprietary capacity and in the course and scope of employment or authorization, subject to the limitations of the Virginia Tort Claims Act (§§ 8.01-195.1 through 8.01-195.8).*

§ 24.1-31.1. Representation of the electoral board, its members and the general registrar.—*The electoral board, its members and the general registrar shall be represented by the Commonwealth's attorney for the locality in all civil matters, unless the governing body of the locality shall allocate funds to employ private counsel for their representation, and shall be insured against liability as provided in § 2.1-526.8.*

§ 24.1-33.1. Prohibited conduct.—*No member of an electoral board shall be eligible to offer for or hold an office to be filled in whole or in part by qualified voters of his jurisdiction. If a member resigns to offer for or hold such office, the vacancy shall be filled as provided in § 24.1-29.*

§ 24.1-33.2. Nepotism.—*The electoral board shall not appoint to the office of general registrar any person who is the spouse of an electoral board member or any person, or the spouse of any*

*person, who is the parent, grandparent, sibling, child or grandchild of an electoral board member.*

§ 24.1-43. Appointment, qualifications, oath and compensation of general registrar; office to be furnished; prohibition as to office holding.—Each electoral board in the Commonwealth at its regular meeting in the first week in the month of March, 1983, and every four years thereafter, shall appoint a general registrar, who shall be a qualified voter of the jurisdiction for which he is appointed; however, if the terms of all members of the electoral board expire in the same calendar year that the term of the general registrar expires, the appointment of a successor general registrar shall be made by the newly appointed electoral board as soon as practicable and the general registrar whose term expires in such year shall continue in office until a successor is duly appointed and qualified. Such general registrar shall not hold any other office, by election or appointment, during his term; 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, before entering upon the duties of his office, shall 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 circuit court, 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 office space owned or leased by the county or city, adequately furnished, located within the county, or within any city in which the county courthouse is located, or city, and with postage, stationery, equipment, telephone, and office supplies as may be necessary. The telephone number shall be listed in the local telephone directory separately or under the local governmental listing under the designation "Voter Registration." The public registration site shall be clearly marked. In the selection of registration sites, consideration shall be given to facilities accessible to the handicapped and elderly, as defined in § 24.1-97, so that a reasonable number of such facilities may be provided. Reasonable expenses, including reimbursement for mileage at the rate payable to members of the General Assembly, for general registrars, as approved by the State Board of Elections, shall be paid by the local governing body.

General registrars shall receive as annual compensation for their services a sum in accordance with the compensation plan set forth in the Appropriations Act. *The local governing body may supplement the annual salary of the general registrar by an amount not to exceed ten percent of the annual compensation set for the general registrar pursuant to the Appropriations Act.*

Such sum is to be paid by the governing bodies of the counties and cities for which the governing bodies shall be reimbursed annually from the state treasury.

The local governing body shall supplement the salary of any general registrar whose office, on July 1, 1974, has a salary scale provided by a county or city higher than that determined by the State Board of Elections for such office, until the state salary scale is equal to or higher than that of such county or city. There shall be no reimbursement out of the state treasury for such supplements. No other additional compensation shall be paid to the general registrar by the local governing body. Salary scales in the affected counties or cities shall be adjusted, in accordance with the population, by the State Board of Elections in any annexation or consolidation order by a court when such order becomes effective.

Normal days of service per week for each general registrar shall be determined by the State Board of Elections.

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.

§ 24.1-45.1. *Nepotism.—The general registrar shall not appoint to the office of paid assistant registrar his spouse or any person, or the spouse of any person, who is his parent, grandparent,*

*sibling, child or grandchild.*

§ 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 principal public office provided by the local governing body and to establish and maintain such additional public places for the registration of voters as are designated by the electoral board. No registrar shall actively solicit any application for registration or any application for ballot or offer anything of value for any such application, but this prohibition shall not be construed to prohibit the participation of registrars in programs to educate the general public or to encourage registration by the general public.

(1a) Remain within the territorial limits of the county or city for which he was appointed to register voters, except that a registrar may go into a county or city in the Commonwealth contiguous to his county or city to register voters of his county or city when conducting registration jointly with the registrar of the contiguous county or city.

(1b) Accept the registration application from a resident of any county or city in the Commonwealth contiguous to his county or city, or of any city wholly surrounded by a county contiguous to his county or city, and, in accordance with written instructions from the State Board of Elections as to the method and timing for forwarding such applications, promptly forward the completed application to the registrar of the applicant's residence who shall then determine the qualification of any applicant whose application was accepted hereunder prior to or on the final day of registration and who shall notify the applicant at the address shown on the application of the acceptance or denial of his registration.

(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. The general registrar and any assistant registrar shall be authorized to administer any oath required for purposes of registration.

(3) Maintain, only in the principal office of the general registrar, true and accurate, 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 part of the official records the written applications of all persons who are registered and preserve for a period of two years the written applications of all persons who are denied registration.

(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, if such voter be within the same jurisdiction, transfer such voter and notify him by mail of such change. If such voter be without the jurisdiction, the general registrar shall notify such voter of the voter's duty to transfer to the election district of his residence, and if such voter fail to comply with the law, remove such voter's name by purge as provided by § 24.1-60.

(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 voters 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 state, 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 who are deceased and 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 24.1-62 and maintain accurate books of registered voters. A voter's name may be removed from the registration records pursuant to § 24.1-60 at any time during the year at which the registrar discovers that such person is no longer entitled to be registered in such district, except within sixty days of the general election in November or within thirty days of any other election in such district.

(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 only those duly designated local governmental agencies or departments 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 or within the previous year, whichever is the lesser period, to be used for city, county, or town purposes only.

(16) [Repealed.]

(17) At the request of the county or city chairman of any political party nominating a candidate for the General Assembly or local office by a method other than direct primary, review any petition required by the party in such nomination process to determine whether those signing the petition are registered voters.

§ 24.1-97. Polling places to be 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. On and after January 1, 1986, entry to each polling place shall be accessible to handicapped and elderly voters. "Handicapped" means having a temporary or permanent physical disability, and "elderly" means sixty-five years of age or older. Accessibility to a polling place shall not be required (i) in the case of an emergency, as determined by the Secretary of the State Board of Elections, or (ii) if the Board has determined that no accessible polling place is available in the precinct and that the county or city is unable to make one temporarily accessible.

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.

*In the case of an emergency which makes the polling place unusable or inaccessible, the electoral board shall provide, subject to the approval of the Board, an alternate polling place and give such notice of the change as is prescribed or approved by the Board.*

§ 24.1-206.3. Authorized use of electronic voting systems and ballots.—A. Any corporation or firm, hereinafter referred to as the "vendor," manufacturing, owning or offering for sale any

*electronic voting system and ballots designed to be used with such equipment may make application to the State Board of Elections, in the manner prescribed by the Board, to examine a production model of such equipment and the ballots used with it. In addition to any other materials which may be required, a current statement of the financial status of the vendor, including any assets and liabilities, shall be filed with the Board; if the vendor is not the manufacturer of the equipment for which application is made, such a statement shall also be filed for the manufacturer. These statements shall be exempt from the provisions of the Virginia Freedom of Information Act (§§ 2.1-340 et seq.). The Board shall also require, at a site of its choosing, a demonstration of such system and ballots and may require that a production model of the system and a supply of ballots be provided to the Board for testing purposes.*

*B. The provisions of this title pertaining to voting machines and ballots shall be deemed applicable to such equipment and ballots provided that (i) the counting equipment used with punchcard or mark sense ballots shall not be required to prevent a voter from voting for a greater number of candidates than he is lawfully entitled to; (ii) the ballot squares or target areas on mark sense ballots shall be the equivalent of not less than one-quarter inch and not more than one-half inch square; (iii) the provisions of this title pertaining to ballot squares shall not be applicable to punchcard ballots; and (iv) any system approved pursuant to this title shall segregate ballots containing write-in votes from all others.*

*C. After its examination of the equipment, ballots and other materials submitted by the vendors, the Board shall prepare and file in its office a report of its finding as to (i) the apparent capability of such equipment to accurately count, register and report votes; (ii) whether the system can be conveniently used without undue confusion to the voter; (iii) its accessibility to handicapped voters; (iv) whether the system can be safely used without undue potential for fraud; (v) the ease of its operation and transportation by voting equipment custodians and officers of election; (vi) the financial stability of the vendor and manufacturer; (vii) whether the system meets the requirements of this title; and (viii) whether, in the opinion of the Board, the potential for approval of such system is such as to justify further examination and testing.*

*D. If the Board determines that there is such potential and prior to its final determination as to approval or disapproval of such system, the Board shall obtain a report by an independent electronics or engineering consultant as to (i) whether the system accurately counts, registers and reports votes; (ii) whether it is capable of storing and retaining existing votes in a permanent memory in the event of power failure during and after the election; (iii) the number of separate memory capabilities for the storage of recorded votes; (iv) its mechanical and electronic perfections and imperfections; (v) the audit trail provided by the system; (vi) the anticipated frequency of repair; (vii) the ease of repair; (viii) the anticipated life of the equipment; (ix) its potential for fraudulent use; (x) its accessibility to handicapped voters; (xi) the ease of its programming, transportation and operation by voting equipment custodians and officers of election; and (xii) any other matters deemed necessary by the Board. Failure by an applicant to cooperate with the consultant by furnishing information and production equipment and ballots requested shall be deemed a withdrawal of the application, but nothing herein shall require the disclosure of trade secrets by the applicant. If such trade secrets are essential to the proper analysis of the system and are provided for that reason, the consultant shall subscribe to an oath subject to the penalty for perjury that he will neither disclose nor make use of such information except as necessary for the system analysis. The report of the consultant shall be filed in the office of the Board.*

*E. If the Board determines that there is potential for approval of the system and prior to its final determination, the Board shall also require that the system be tested in an actual election in one or more counties or cities. Its use at such election shall be as valid for all purposes as if it had been legally approved by the Board and adopted by the counties or cities.*

*F. If, following testing, the Board approves any electronic voting system and its ballots for use, the Board shall so notify the electoral boards of each county and city. Systems so approved may be adopted for use at elections as herein provided. No form of electronic voting system and ballots not so approved shall be adopted by any county or city. Any electronic voting system and ballots approved for use by the Board shall be deemed to meet the requirements of this title, and their use in any election shall be valid.*

**§ 24.1-257. Report of contributions and expenditures to be filed.—A. The reports of**



contributions and expenditures as prescribed in § 24.1-258 shall be filed (i) by a committee as defined in § 24.1-254.1 with the State Board of Elections in accordance with § 24.1-257.1, (ii) by a candidate for nomination or election to statewide office or by his designated treasurer with the State Board of Elections, (iii) by any candidate for nomination or election to a constitutional office shared by two or more counties and cities or the General Assembly or by his designated treasurer with the electoral board of the locality where the candidate resides and the State Board of Elections, except as provided under paragraph (1) (d) of this subsection, and (iv) by any candidate for local office or by his designated treasurer with the electoral board of the locality where the candidate resides and with such electoral board, in lieu of the State Board, for the purposes of paragraph (1) (d) of this subsection. Any report to be filed with the State Board of Elections may be mailed and if mailed must be postmarked not later than the deadline for filing set forth herein, except as provided under paragraph (1) (d) of this subsection.

(1) (a) Such reports pertaining to a candidate seeking nomination by any means other than a primary shall be filed not later than the eighth day before the convention, mass meeting, or other method of nominating candidates and shall be complete as of the eleventh day before such nominating method; however, this requirement shall not apply to *any candidate who is unopposed for nomination nor to any nomination for a special election held less than thirty-five days from the issuance of the writ*; and

(b) Such reports pertaining to an election for statewide office shall be filed not later than *May 1 before a primary election and be complete as of April 25 and not later than the thirtieth day before the November election is held* and shall be complete as of the thirty-fifth day before the election; and

(c) Such reports pertaining to an election for any office shall be filed not later *June 1 before a June primary election and be complete as of May 29 and not later than the eighth day before the a March primary or a general election* and shall be complete as of the eleventh day before the *March primary or general election*; and

(d) Any single contribution knowingly received or reported of more than \$1,000 for a statewide office and more than \$500 for any other office or offices, by the candidate, or his treasurer, on behalf of his candidacy between *May 29 before a June primary or between the eleventh day preceding any nominating method or election in which the individual is a candidate and the nomination or election day shall be reported in writing within 72 seventy-two hours to the State Board of Elections; however, any such contribution received within the 72 seventy-two hours prior to the nomination or election day shall be reported and a report thereof received by the State Board no later than the day prior to the nomination or the election.*

(1.1) Additional prenomination and preelection reports pertaining to elections for statewide office and the General Assembly shall be filed as follows:

(a) Beginning with the first year in which any contribution is accepted or expenditure is made, annual reports of contributions received and expenditures made during the calendar year shall be filed for each calendar year by the following January 15, provided that a transfer of surplus funds from a candidate's own prior campaign pursuant to subsection C below shall not be considered to be a contribution ; and

(b) A report of contributions and expenditures shall be filed for any candidate for nomination for, or election to, such office at the time he declares as a candidate for nomination or election which shall disclose any previously unreported contributions or expenditures .

(2) Such reports shall be filed no later than *July 15 after a June primary election to be complete through July 10 and no later than the thirtieth day after the any other nomination or the election to be complete through the twenty-fifth day after such nomination or election or prior to taking office, whichever first occurs*; and

(3) If any funds remain unexpended or any unpaid bills, loans, deficits or other financial obligations remain to be paid at the time the report in paragraph (2) above is filed or if any funds have been received thereafter, *August 15 after a June primary or sixty days after the any other nomination or election*; and

(4) If any funds remain unexpended or any unpaid bills, loans, deficits or other financial obligations remain to be paid at the time the report in paragraph (3) above is filed or if any funds have been received thereafter, six months after the nomination or election; and

(5) If any funds remain unexpended or any unpaid bills, loans, deficits or other financial obligations remain to be paid at the time the report in subsection (4) above is filed or if any funds have been received thereafter, one year after the nomination or election and annually thereafter until a final report is filed.

(6) A final report shall be filed which sets forth (i) all receipts and disbursements not previously reported, (ii) an accounting of the retirement of all debts, and (iii) the disposition of all residual funds. The final report shall include a termination statement, signed by the candidate, that all reporting for the nomination or election is complete and final.

B. It is the responsibility of the candidate and treasurer, jointly, to file the report of a candidate and they shall file such report in full and accurate detail.

C. For the purpose of filing the reports required by this section, each nominating method other than a primary, each primary election, and each general election shall be treated separately , *except that a successful candidate for nomination may use the same campaign depository for nomination and election to office and file one final report* . After the filing of a final report, surplus funds may be transferred following any nominating method for use in the election and following any election for use in a campaign for a succeeding election.

D. Either the willful failure to file any report or the willful late filing of any report required by this section shall constitute a violation of this chapter subject to the penalty provided in § 24.1-262.

E. Any person who did not seek the nomination of a political party but subsequently becomes the nominee of the party shall file only the report due thirty days after the nominating convention or mass meeting, or other method of nominating candidates and shall file all reports required of a candidate in an election.

2. That § 24.1-206.2 of the Code of Virginia is repealed.

**APPENDIX A**

**ITEM #6**

**SENATE BILL NO. .... HOUSE BILL NO. ....**

A BILL to amend the Code of Virginia by adding in Chapter 7 of Title 24.1 an article numbered 2.1, consisting of a section numbered 24.1-162.1, relating to the nomination of Presidential candidates.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 7 of Title 24.1 an article numbered 2.1, consisting of a section numbered 24.1-162.1 as follows:

*Article 2.1.*

*State Selection Procedures for Nomination of*

*Presidential Candidates.*

*§ 24.1-162.1. Date for selection of delegation to national Presidential nominating convention.—The date on which a state party selects its delegates to a national Presidential nominating convention shall be the second Saturday in March of the year of the national convention. 2. The provisions of § 24.1-162.1 shall be in force and effect on and after the later of the following two dates: (i) July 1, 1986; or (ii) the last date on which legislation takes effect that has been enacted by twelve or more of the States of Alabama, Arkansas, Florida, Georgia, Kentucky, Louisiana, Maryland, Mississippi, North Carolina, Oklahoma, South Carolina, Tennessee, Texas and West Virginia and that provides that the second Tuesday or the second Saturday in March of a Presidential election year shall be the date for a state Presidential primary or the selection of state party delegations to national party Presidential candidate nominating conventions.*

APPENDIX A

ITEM #7

SENATE BILL NO. .... HOUSE BILL NO. ....

A BILL to amend and reenact § 15.1-37.5 of the Code of Virginia, relating to reapportionment in political subdivisions.

Be it enacted by the General Assembly of Virginia:

1. That § 15.1-37.5 of the Code of Virginia is amended and reenacted as follows:

**§ 15.1-37.5. Reapportionment of boundaries of districts or wards.— In a county, city, or town electing members of its governing body from districts or wards, the governing body may reapportion the representation in the governing body by altering the boundaries of districts or wards, including, if the governing body deems it appropriate, increasing or diminishing the number of such districts or wards, provided that such representation is based, as nearly as is practicable, on population.**

In a county, city, or town electing members of its governing body from districts or wards, the governing body in ~~nineteen hundred seventy-one~~ 1971 and every ten years thereafter shall reapportion the representation in the governing body by altering the boundaries of the districts or wards, including, if the governing body deems it appropriate, increasing or diminishing the number of such districts or wards, in order to give, as nearly as is practicable, representation on the basis of population. For the purposes of reapportioning representation in ~~nineteen hundred seventy-one~~ 1971 and every ten years thereafter, the governing body of a county, city, or town shall use population figures of the most recent decennial United States census for such county, city, or town.

*Notwithstanding any other provision of general law or special act, the governing body or such county, city, or town shall not reapportion the representation in the governing body at any time other than that required following the decennial census, except as provided by law upon a change in the boundaries of the county, city, or town, as the result of a court order, as the result of a change in the form of government, or as the result of an increase or decrease in the number of districts or wards other than at-large districts or wards.*

2. The provisions of this act shall be in force and effect on and after July 1, 1986. Any district that serves for the election of a member of the governing body of a county, city or town and that was created on or after January 1, 1986, shall remain in force and effect only in the following cases: (i) the reapportionment which created the district is valid under the provisions of § 15.1-37.5 as amended by this act; or (ii) an election to office from the district has been held prior to July 1, 1986. In the case that districts created by a reapportionment enacted on or after January 1, 1986, are invalid under the provisions of this act, the immediately pre-existing districts shall remain in force and effect until validly reapportioned in accordance with law on or after July 1, 1986.

**APPENDIX A**

**ITEM #8**

**SENATE JOINT RESOLUTION NO....**

Requesting the joint subcommittee of the Senate and House Committees on Privileges and Elections to continue to study certain revisions in the election laws.

WHEREAS, the joint subcommittee of the Senate and House Committees on Privileges and Elections established pursuant to 1985 Senate Joint Resolution No. 92 has concluded its study and reported on a number of revisions in the election laws; and

WHEREAS, several matters relating to the nomination and primary processes are still under consideration by the joint subcommittee; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the joint subcommittee be continued to complete its studies of matters relating to the nomination and primary processes and such other revisions in the election laws as may come to its attention.

The joint subcommittee shall complete its work in time to make any recommendations it deems appropriate to the 1987 Session of the General Assembly.

The direct and indirect costs of this study are estimated to be \$13,200.

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**SENATE JOINT RESOLUTION NO. 92**

*Requesting the establishment of a joint subcommittee of the Senate and House Committees on Privileges and Elections to study certain revisions in the election laws.*

Agreed to by the Senate, February 4, 1985  
Agreed to by the House of Delegates, February 20, 1985

WHEREAS, it is the policy of this Commonwealth to assure every citizen the opportunity to register and vote and to promote citizen participation in the electoral process; and

WHEREAS, it is essential that all citizens continue to have full confidence in the integrity, impartiality, and efficiency of the Commonwealth's electoral process; and

WHEREAS, changes have been proposed to revise various features of the registration and voting provisions of the Constitution and statutory law which should be reviewed in relation to each other and to the end that revisions in the Commonwealth's election system will promote citizen participation and assure continued confidence in the electoral process; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That a joint subcommittee be established (i) to review and evaluate proposals for revisions in the registration and election provisions of the Constitution and statutes to assure that changes made accomplish the primary goals of full citizen participation and continued public confidence in the electoral process, (ii) to verify that changes proposed accord with federal statutes such as the Voting Rights Act, and (iii) to consider related matters and revisions which might further these primary goals and also simplify and streamline election procedures and provisions.

The joint subcommittee shall consist of eleven members who shall be appointed in the following manner: four members from the Senate Committee on Privileges and Elections appointed by that Committee, and seven members of the House Committee on Privileges and Elections appointed by the Speaker of the House.

The joint subcommittee shall complete its work in time to submit recommendations, if any, to the 1986 Session of the General Assembly.

The direct and indirect costs of this study are estimated to be \$16,500.

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APPENDIX C

PROPOSALS AND RECOMMENDATIONS  
FILED WITH THE  
JOINT SUBCOMMITTEE STUDYING  
ELECTION LAWS  
ON OR BEFORE AUGUST 1, 1985

September 5, 1985

At its organizational meeting on May 16 the Joint Subcommittee Studying Election Laws adopted the following procedure to enable interested parties to comment and make suggestions for changes in the election laws. All groups and individuals were requested to submit their proposals to the Division of Legislative Services by August 1, 1985, so that a summary report of the recommendations received could be assembled for a public hearing on September 10, 1985.

Notices were sent by Legislative Services to approximately 70 individuals and organizations representing associations of election officials, local elected officers, local governments, political parties, and other groups and organizations known to be interested in the issue. These organizations were asked in turn to share the information with local affiliates and other interested parties. Each member of the House of Delegates and Senate received a letter from Senator Andrews inviting comments. Finally, the Senate Clerk's Office distributed a statewide press release containing the Joint Subcommittee's invitation for comments and notice of the public hearing. Comments and suggestions were received by August 1 from approximately 20 groups and individuals.

The proposals and recommendations with regard to the election laws are presented on the following pages by major area of the law affected. The individuals and organizations who made the suggestion are listed under each proposal. The summary does not attempt to summarize the arguments which were presented in favor of the suggestions, since most groups want to make their own presentations at the public hearing.

Note that Lieutenant-Governor Richard J. Davis presented the recommendations of the Governor's Commission to Increase Voter Registration in Virginia, which he chaired. Common Cause of Virginia, American Civil Liberties Union, and the Democratic Party of Virginia all endorsed the Governor's Commission recommendations in their filings. These organizations are shown as endorsing individual proposals on the following pages only when they singled out specific items of the Commission Report for discussion in their own submissions.



I. PROPOSALS RELATING TO METHODS AND PROCEDURES FOR REGISTRATION

A. Remove the Constitutional Requirement of In-Person Registration (Enabling Virginia to Adopt Mail Registration).

Article II, § 2 requires that "all applications to register shall be completed in person before the registra" unless a specific exception is provided elsewhere in the Constitution. Article II, § 4 allows the General Assembly to provide for absentee registration for members of the Armed Forces in active service, persons residing temporarily outside the United States for employment reasons, and their spouses and dependants.

Submission by the following individuals and organizations advocate a mail registration system, either explicitly or implicitly by supporting removal of the in-person requirement: Common Cause of Virginia (submitted mail registration laws of several states and other background material); Virginia Action (submitted report by National Clearinghouse on Election Administration); American Civil Liberties Union Foundation of Virginia (ACLU); Virginia State A.F.L.-C.I.O.; Democratic Party of Virginia; Abemarle Branch NAACP, John E. Wallace, President; Mildred Nobles, Abemarle Branch NAACP; Governor's Commission, Minority Report (the Commission vote was 8-8 on mail registration)

B. Allow a Person Who Has Not Voted in Four Years to Respond in Writing to a Purge Notice and Remain Registered.

Article II, Section 4 of the Constitution of Virginia requires the General Assembly to provide for the cancellation of the registration of any voter who has failed to vote for four years. The voter thus must re-register in person to regain eligibility.

The 1985 Session passed on first reference a proposed constitutional amendment to allow a person to return a written response upon notification of pending cancellation indicating a desire to remain registered at the same address (HJR 341).

The Governor's Commission supported this change in the purge procedure and the ACLU endorsed HJR 341 in its submission.

C-1. Permit Statewide Registration, Allowing a Person to Apply for Registration before Any Registrar in the State with the Application Forwarded to the Registrar of the Applicant's Residence.

The General Assembly in 1984 allowed for such application to register in a contiguous county or city.

Statewide registration was recommended by: Governor's Commission; ACLU and J. Jack Kennedy, Jr., Young Democrats of Virginia.

C-2. Extend Contiguous Registration Law to Cover Small Cities Wholly Contained Within Counties.

The claim is that voter confusion or hardship has resulted. For example, the small city of Manassas is surrounded by Prince William County. Potential registrants from Manassas cannot apply to register in counties contiguous to Prince William (primarily Fairfax), nor can the Manassas registrar accept applications from residents of these counties. The recommendation is to treat the city territorially as a part of the county within which it is situated for purposes of determining contiguity.

Delegate Harry Parrish of Manassas recommends a change in the law to accomodate such small cities. The Voter Registrars Association of Virginia also asks the Commission "to address the problem."

D. Eliminate the Prohibition Against Solicitation of Registration by Registrars, under Guidelines from the State Board of Elections.

This recommendation was made by: Governor's Commission; Virginia Action; ACLU; Democratic Party of Virginia; Abemarle Branch NAACP; and Mildred Nobles.

II. PROPOSAL RELATING TO EMERGENCY ABSENTEE BALLOT IN CASE OF HOSPITALIZATION/CALLED OUT OF TOWN BY EMERGENCY.

Section 24.1-228.1 requires absentee ballot applications to be made not less than three days before the election if in person or five days if by mail. This recommdation is to provide a procedure for those who may be hospitalized or called out of town after the deadline.

The Voter Registrars Association recommends that a system is needed to handle such situations, as does the Norfolk-Virginia Beach League of Women Voters and Shirley Jones, Secretary of the Alexandria Electoral Board.

### III. PROPOSALS RELATING TO TIMES AND PLACES OF REGISTRATION

#### A. Reduce Period During Which Registration Books are Closed Prior to an Election

Section 24.1-49 provides for a final day of registration 31 days before the election; § 24.1-50 requires that the registration books be closed thereafter.

The Governor's Commission, the ACLU, and Virginia Action all propose that the time the books are closed be reduced from 30 to 20 days. The Democratic Party of Virginia recommends that the period be reduced to 14 days.

The Governor's Commission notes that all local registrar's offices would need to become "computer-assisted" in order to reduce the closing period.

#### B. Mandate Increased Hours for Central Registrar's Office

Section 24.1-49 requires the principal office to be open a minimum of one day per week, but subject to the provisions of § 24.1-43 which allows the State Board of Elections to set normal days of service for each registrar.

The Appropriations Act, however, prescribes a five-day week for all localities over 30,000 and, as of the 1985 amendments, requires a minimum of two days for all registrars. Further, 1985 amendments require the office in each locality to be open five days per week for the months of August through December.

The AFL-CIO recommends that all registrar's offices be open five days per week throughout the year and be open until 7:00 p.m. on two of those days. Alternatively, these days and hours should be retained until a "reasonable" percent of the voting age population in the locality is registered.

The Voter Registrars Association recommended, by a 31-27 vote, that the Joint Subcommittee "study the feasibility" of all general registrars having office hours five days per week throughout the year. Lucille Joyce, Lexington City Registrar, wrote specifically to oppose any additional requirements as to days and hours.

Virginia Action proposed that, if mail registration were not permitted, local registrar's offices be required to be open five hours per week outside regular working hours and that they be mandated to be open between the hours 11:00 a.m. and 2:00 p.m. on the days they are open.

C. Increased Use of Satellite Registration Sites

The general registrar may set other times and places of registration but is required by § 24.1-49 to set additional "geographically dispersed" sites within the 40 days preceding the final registration day. One additional place is required for each 5,000 population, up to a maximum of 20 places. The 1985 Session added the requirement that, to the extent possible, registration at these places be held after 5:00 p.m. or on week-ends.

Virginia Action recommends the extended use of satellite registration by mandating that a certain unspecified number of satellite registrations be held per year in each voting precinct. Virginia Action further recommends that satellite sites be selected in consultation with community organizations. The Albemarle Branch NAACP also raised the issue of being allowed to participate in selecting satellite sites.

The Democratic Party of Virginia "encourages" registrars to operate as many satellite sites as possible.

D. Accessibility of Registration Sites to Handicapped

The 1985 Session amended §24.1-43 to require that "consideration be given" to accessibility to the handicapped in the selection of registration sites so that a "reasonable number" of accessible facilities may be provided.

The Governor's Commission had recommended a minimum of one such site, with reasonable hours. The ACLU recommends that the registrar's office be required to be handicapped accessible.

E. Special Registration Sites and Maintaining Order

The Montgomery County Electoral Board recommends the establishment of a 40 foot "Prohibited Area" around such sites.

IV. PROPOSALS RELATING TO PERSONNEL

A. Eliminate the Prohibition Against Certain Government Employees Serving as Assistant Registrars (or Officers of Election)

The 1985 General Assembly passed on first reference a proposed amendment to Article II, Section 8, so as to remove this prohibition for non-elective federal, state and local officers and employees (HJR 341).

The Governor's Commission offered the same general proposal. The following endorsed HJR 341 specifically, or the general concept: ACLU, Democratic Party of Virginia, and Shirley Jones, Secretary of the Alexandria Electoral Board.

B. Require the Registrar to Appoint the Necessary Number of Volunteer Registrars at Satellite Sites if No Paid Assistant is Available

This proposal is from the Governor's Commission and also was contained in written submissions of the Albemarle Branch NAACP and Mrs. Mildred Nobles.

C. Allow Localities to Supplement Salary of the General Registrar

The Governor's Commission recommended either that the state salary scale be increased or that localities be allowed to supplement the salary. The Voter Registrars Association also makes this recommendation.

The 1985 Session did increase the salary scale to a maximum of \$38,576 for a locality of over 350,000. The salary in a locality between 25,000 and 50,000 is \$20,538 for example.

D. Mandate a Minimum Salary Scale for the Chief Assistant Registrar

Compensation is fixed and paid by the local governing body. The Voter Registrars Association recommends that a minimum state scale be mandated, based on population. Nellie W. Knick, Rockbridge County General Registrar, also wrote in support of a minimum scale.

E. The Status of General Registrars Should Be Clarified by Being Made Appointed Constitutional Officers

This specific recommendation was made by the Voter Registrars Association. The Association notes the specific question of who represents the registrar in the event of litigation (i.e., the Commonwealth's Attorney as a state employee or the local attorney as a local employee). Delegate Franklin P. Hall in addition has raised the issues of liability insurance and employee benefits involved. Senator Elmon T. Gray also submitted a letter to him from E. M. Miller, Staff Director of the Senate Finance Committee, addressing the same points.

The Attorney General in a series of opinions has held that the registrar is a local employee. Section 24.1-32 declares the registrar, among others, a local employee for purposes of Title 65.1 (Workmen's Compensation).

F. The State Board of Elections Should Be Required to Establish Procedures for Expedient Investigation and Resolution of Complaints Involving Registrars and Local Electoral Boards.

A recommendation of the Governor's Commission. A related recommendation of the Montgomery County Electoral Board.

G. Improvements to the Procedures Book for Local Election Officials and Increased Seminars by the State Board of Elections.

Recommendations of the Montgomery County Electoral Board.

V. OTHER RECOMMENDATIONS

A. Registration to be Maintained at Highest Level

The Governor's Commission and ACLU recommend adoption of a statement of legislative intent that registration be maintained at the highest possible level.

B. Automatic Restoration of Rights of Convicted Felons

Article II, Section 1, provides that rights are to be restored "by the Governor or other appropriate authority." In 1982 the voters rejected a proposed amendment which would have added "or as may be provided by general law."

Virginia Action recommends that rights be restored automatically upon completion of sentences, parole, and suspended sentences. Virginia Action states that a constitutional amendment would not be required to do so. However, it is unclear exactly what legislative action is being requested, or whether this recommendation is directed at the administrative procedures followed by the Governor in restoring rights.

The Governor's Commission made a study of the restoration process and recommended several administrative changes.

C. Election Day Registration

The ACLU states that the study committee "might wish to consider" a system of election day registration.

D. Protect Records from Computer Fraud

The ACLU includes protection of computerized records from computer fraud as another item which the committee "might wish to consider."

E. Voter Education Programs

The Governor's Commission recommended increased use of media and publicity campaigns to encourage voter registration. The AFL-CIO recommends that money be allocated to the State Board of Elections to publicize the registration options now available to voters (such as mail registration opportunities now available to certain categories of voters).

The Democratic Party of Virginia supports the continuance of educational programs by the Board of Elections aimed at encouraging participation.

F. Specific Procedural Changes for Polling Places, Supplies, and Ballots.

The Montgomery County Electoral Board submitted a number of suggestions for administrative changes in these areas.

VI. RECOMMENDATION THAT NO CHANGES BE MADE

Mr. Ralph E. Repass, a member of the Smyth County Electoral Board, recommended that no changes be made.



DONALD E. WILLIAMS  
COMMISSIONER

ANN F. OBER  
SPECIAL ASSISTANT

FRANK W. SENCINDIVER  
DEPUTY COMMISSIONER

COMMONWEALTH of VIRGINIA

*Department of Motor Vehicles  
2300 West Broad Street*

MAIL ADDRESS  
P. O. BOX 27412  
RICHMOND, VIRGINIA 23269

December 6, 1985

The Honorable Hunter B. Andrews  
P. O. Box 566  
Hampton, Virginia 23669

Dear Senator Andrews:

Knowing of your interest in the recent proposals to increase voter registration, I thought you might be interested to see the attached letter from Fairfax County. I have also enclosed a copy of a letter I wrote to Susan Fitz-Hugh, Secretary of the Board of Elections, in February 1984.

As you can tell from these letters, we have provided space in our offices for voter registration for some time now. In many localities this is done on a regular basis. We have had many positive responses from local jurisdictions, and feel that many thousands of voters have registered while at our offices.

Best wishes for the Holidays.

Sincerely,

A handwritten signature in cursive script, appearing to read "Don".

Donald E. Williams  
Commissioner

DEW/d

Attachments



COMMONWEALTH OF VIRGINIA  
COUNTY OF FAIRFAX



OFFICE OF THE ELECTORAL BOARD AND GENERAL REGISTRAR

4031 UNIVERSITY DRIVE  
FAIRFAX, VIRGINIA 22030

385-8100

ELECTORAL BOARD

JAMES D. SWINSON, CHAIRMAN  
NANCY D. WHITE, VICE CHAIRMAN  
JANE G. VITRAY, SECRETARY

GENERAL REGISTRAR

LILYAN Y. SPERO

November 25, 1985

Fred Hensley  
District Manager  
Department of Motor Vehicles  
1968 Gallows Road  
Vienna, VA 22180

Dear Mr. Hensley:

In a non-presidential "off year" election, Fairfax County managed to register approximately 20,000 new voters - a 50% increase over the last Gubernatorial and the largest percentage increase in the Commonwealth.

To a great extent, this was due to the help and co-operation we received from companies, organizations and people like you. Without your help, we never could have accomplished this.

We registered 4,423 Fairfax County residents at the DMVs this year plus innumerable residents of adjacent jurisdictions. This is a tremendous service the DMVs, through you, perform for the residents of Northern Virginia, and I have so notified the Governor of Virginia.

We look forward to working with you again next year and hope to be able, both of us together, to be of even greater service to the citizens of Fairfax County.

Sincerely,

Lilyan Y. Spero  
General Registrar

RECEIVED

DEC 3 1985

JEAN DUNGA

Linda Kastelber



COMMONWEALTH of VIRGINIA  
*Division of Motor Vehicles*  
2300 West Broad Street

Donald E. Williams  
Commissioner

Mail Address  
P.O. Box 27412  
Richmond, Virginia 23269

February 10, 1984

Ms. Susan H. Fitz-Hugh  
Executive Secretary  
State Board of Elections  
Ninth Street Office Building  
Richmond, Virginia 23219

Dear Ms. Fitz-Hugh:

Since last fall, the Division of Motor Vehicles has cooperated with several local registrars by offering lobby space in our branch offices for registering voters.

Currently, five Richmond area DMV branch offices are serving as Richmond City and Henrico County voter registration sites on the last two working days of each month through September.

Also, four Northern Virginia branch offices, Tysons Corner, Fairfax, Baileys Crossroads, and Franconia, are sponsoring registration sites every Thursday from February through September.

At the Fairfax branch office last fall, the Fairfax City Registrar registered 107 voters, while the Fairfax County Registrar registered 403 voters and processed 47 address changes in eight consecutive Thursdays.

We would be happy to extend this service to registrars statewide. Interested officials should simply contact a branch office manager in their area to work out suitable arrangements.

We believe expanding the use of DMV branches as registration sites statewide would be a valuable service to citizens, and we hope local registrars will take advantage of this opportunity. Let me know if we can be of further assistance or if you have any questions.

Sincerely,

Donald E. Williams  
Commissioner

DEW/d

cc: Honorable Andrew B. Fogarty



*A Partnership With the Public*

## APPENDIX E

1. Report from the FEC Journal, 1984 Election Results, Vol. No. 12, Summer 1985, pp. 8 and 9.
2. December 16, 1985, Election Administration Reports, Voter Registration and Turnout in the 1984 Presidential Election, pp. 6 and 7.

# 1984 Presidential Election Results

Because of the decentralized nature of the U.S. election system, it takes a good deal longer than one might imagine to compile and analyze the results of a Federal election. Even the simplest analysis is, moreover, unexpectedly tricky because of the variety of figures issued by different or even sometimes by the same source.

The Clearinghouse enters the field of reporting election statistics in the hope of clarifying rather than further confusing matters. To that end, we will soon be issuing a Technical Report on the subject. We offer in the meantime a frame of reference as a preface to the table which follow.

■ **Voting Age Population (VAP)** refers to the total number of persons residing in the States who are over the age of 18 regardless of their citizenship, criminal status, or mental condition. The standard and most reliable source of VAP figure is, of course, the Bureau of Census. There are, however a number of subtleties and nuances to using VAP figures as a basis for measuring voter participation. Note, for example, that the figure includes aliens, felons, and others not eligible to vote. One consequence of this is that U.S. participation figures are artificially lower than European nations who calculate on the basis of only the eligible electorate. Another noteworthy nuance is that the Bureau of Census reports different VAP figures for the same election at different times depending on the information available to them. There is, for example, a projected voting age population followed in time by slightly different estimated voting age population figures. Because different VAP figures will yield percentages, it is important to recognize that the Federal Election Commission for several reasons bases its calculations on the *projected voting age population* as reported by the Bureau of Census.

■ **Eligible Electorate** refers, as the words suggest, to the number of persons residing in the States who are of voting age and who are also eligible to vote. Unfortu-

nately, it is extremely difficult to do anything but approximate these figures. And it is for this reason that the more reliable VAP figures are traditionally employed as the basis for calculating participation. Yet for those interested in approximating, the Bureau of Census reported in their population projection for the 1984 election (Series P-25, No. 948 of April 1984) that the VAP included approximately 6 million legal aliens, 2 million illegal aliens, and a half million persons ineligible to vote because they were in prisons, mental hospitals, or other institutions.

■ **Registered Population** refers, of course, to the number of persons in the United States registered to vote in the election. Yet registration figures are for several reasons extremely unreliable and are seldom used in any serious analysis of voter participation. Although the Bureau of Census does report registration figures in its P-20 series, it must be said that the accuracy of those figures suffers from the limitations true of any survey. It is equally difficult to obtain accurate registration figures from the States since different purge laws and cycles seriously affect the accuracy and comparability of the numbers. Either way you go about it, then, registration figures are undependable.

■ **Voter Turnout**, despite its apparent simplicity, may be derived in a least two different ways. The most exacting technique, which is employed in only some of the States, is to count all those who cast a ballot. The more common technique, and the one employed by the Federal Election Commission, is to total the number of votes in the Presidential race despite the fact that some voters (as many as 2%) may skip that race when voting.

What follows, then, are participation figures based on votes cast for President of the United States as measured against the Bureau of Census projected voting age population for the November 1984 election.

**Table 1: Participation in the 1980 and 1984 Presidential Elections by State**

State	1980 Election		1984 Election	
	PVAP	Percent Voting for President	PVAP	Percent Voting for President
Alabama	2,702,000	49.7	2,875,000	50.1
Alaska	257,000	61.3	345,000	60.2
Arizona	1,779,000	49.1	2,200,000	46.6
Arkansas	1,562,000	53.6	1,694,000	52.2
California	16,956,000	50.6	19,063,000	49.9
Colorado	2,050,000	57.8	2,365,000	54.8
Connecticut	2,321,000	60.6	2,404,000	61.0
Delaware	420,000	56.1	457,000	55.7
District of Columbia	475,000	36.6	482,000	43.8
Florida	6,876,000	53.6	8,529,000	49.0
Georgia	3,629,000	43.6	4,204,000	42.2
Hawaii	657,000	46.2	755,000	44.5
Idaho	634,000	69.0	681,000	60.4
Illinois	8,046,000	59.0	8,410,000	57.3
Indiana	3,849,000	58.2	3,969,000	56.3
Iowa	2,093,000	63.0	2,119,000	62.3
Kansas	1,759,000	55.7	1,794,000	57.0
Kentucky	2,532,000	51.2	2,700,000	50.7
Louisiana	2,780,000	55.7	3,147,000	54.2
Maine	790,000	66.2	848,000	65.2
Maryland	3,039,000	50.7	3,259,000	51.4
Massachusetts	4,298,000	58.7	4,422,000	57.9
Michigan	6,557,000	59.6	6,530,000	58.2
Minnesota	2,957,000	69.2	3,044,000	68.5
Mississippi	1,650,000	54.1	1,810,000	52.0
Missouri	3,569,000	58.8	3,682,000	57.7
Montana	560,000	65.0	591,000	65.0
Nebraska	1,138,000	56.2	1,163,000	56.1
Nevada	533,000	45.7	689,000	41.6
New Hampshire	657,000	58.4	722,000	53.9
New Jersey	5,398,000	55.1	5,659,000	56.9
New Mexico	869,000	52.5	997,000	51.6
New York	12,900,000	48.1	13,326,000	51.1
North Carolina	4,055,000	45.8	4,559,000	47.7
North Dakota	469,000	64.3	491,000	62.9
Ohio	7,701,000	55.6	7,846,000	58.0
Oklahoma	2,131,000	54.0	2,452,000	51.2
Oregon	1,909,000	61.9	1,961,000	62.5
Pennsylvania	8,652,000	52.7	8,989,000	53.9
Rhode Island	687,000	60.5	733,000	56.0
South Carolina	2,069,000	42.9	2,386,000	40.6
South Dakota	485,000	67.6	498,000	63.8
Tennessee	3,205,000	50.5	3,476,000	49.3
Texas	9,648,000	47.1	11,487,000	47.0
Utah	901,000	67.1	1,040,000	60.5
Vermont	359,000	59.4	391,000	60.0
Virginia	3,817,000	48.9	4,203,000	51.1
Washington	2,798,000	62.3	3,202,000	58.8
West Virginia	1,357,000	54.4	1,433,000	51.3
Wisconsin	3,446,000	66.0	3,490,000	63.4
Wyoming	335,000	52.8	365,000	51.8

## VOTER REGISTRATION AND TURNOUT IN THE 1984 PRESIDENTIAL ELECTION

Voter registration and turnout statistics in the United States frequently confound persons who attempt to compile national totals or to draw comparisons among the states.

The table on Page 7, compiled by Election Data Services of Washington, D.C., provides basic statistics on voter registration and turnout during the 1984 presidential election based on the data provided by each state. The laws and practices, however, vary so widely that comparisons are difficult to make.

The voting age population figures shown for 1984 are provided by the Bureau of the Census and include all persons of voting age regardless of citizenship or other qualifications of voting. In almost every state, the eligible voting population is substantially lower than the voting age population, depending upon the state law regarding voter qualifications, and the number of non-citizen residents, felons, persons of unsound mind, and temporary residents who maintain their voting residence out-of-state.

Voter turnout figures are substantially underreported. Many states report turnout as the total vote cast for the highest office on the ballot. This method of reporting fails to account for persons who do not vote for that office, or whose ballots are void through their own or administrative error.

The voter registration figures in the table are reported as of the close of registration before the election. Because purge practices vary widely among the states, the percentage of outdated names also varies widely.

The voter registration figures are also misleading for Minnesota, Maine, Oregon and Wisconsin. In these states, no person otherwise qualified to vote is prevented from voting for failure to register prior to the election. The electoral system in these states functions in virtually the same way as in North Dakota, which maintains no permanent voter registration lists at all.

In these five states the turnout of voting age population averaged 64.9 percent compared to 52.6 percent in all other states. These five states have greater residential stability than many other states, no history of past voting discrimination due to race, and relatively small black and Hispanic populations.

The difficulty in attempting to compare states by using registration figures can be seen by analyzing the top three states in percentage of voters registered.

	% Reg of VAP	Rank	% T/O of Reg	Rank	% T/O of VAP	Rank
Maine	95.60	1	68.23	39	65.23	2
Mississippi	92.24	2	56.37	50	51.99	31
Michigan	90.18	3	64.56	46	58.22	15

Although the number of names on registration lists in these three states exceeds 90 percent of the voting age population, turnout as a percent of the registered voters places all three states among the lower 11. Obviously many of those whose names are still on the rolls do not vote and probably no longer live where they are registered. These states rank quite differently when turnout is calculated as a percentage of the voting age population.

Due to the variations in state registration and recording practices, the figures most constant, and those most consistently used for comparative analysis are voting age population and turnout. Voter registration is not required at all in North Dakota or in parts of Wisconsin.

NOVEMBER, 1984 REGISTRATION AND TURNOUT  
Compiled by Election Data Services, Inc.  
Washington, D.C. (202) 789-2004)

	1984 VAP	1984 REG	1984 T/O	% REG of VAP	RANK % T/O of VAP	RANK % T/O of REG	RANK % T/O of VAP	RANK	
Alabama	2,875,000	2,343,448	1,441,713	81.51	11	61.52	48	50.15	40
* Alaska	345,000	305,262	207,605	88.48	7	68.01	40	60.18	12
Arizona	2,200,000	1,461,128	1,025,897	66.41	38	70.21	36	46.63	46
Arkansas	1,694,000	1,159,588	884,406	68.45	36	76.27	17	52.21	30
* California	19,063,000	13,073,630	9,505,041	68.58	34	72.70	28	49.86	41
Colorado	2,365,000	1,621,306	1,295,380	68.55	35	79.90	8	54.77	26
Connecticut	2,404,000	1,806,032	1,466,674	75.13	21	81.21	4	61.01	9
* Delaware	457,000	302,210	254,572	66.13	39	84.24	3	55.70	25
* District of Columbia	482,000	275,000	211,288	57.05	47	76.83	15	43.84	48
Florida	8,529,000	5,574,472	4,177,984	65.36	41	74.95	21	48.98	43
Georgia	4,204,000	2,734,202	1,775,350	65.04	43	64.93	45	42.23	49
Hawaii	755,000	418,898	335,537	55.48	48	80.10	7	44.44	47
Idaho	681,000	582,196	411,144	85.49	8	70.62	35	60.37	11
Illinois	8,410,000	6,470,438	4,819,088	76.94	17	74.48	24	57.30	19
Indiana	3,969,000	3,049,590	2,233,069	76.84	18	73.22	26	56.26	22
* Iowa	2,119,000	1,762,841	1,319,805	83.19	9	74.87	23	62.28	8
* Kansas	1,794,000	1,113,379	1,021,991	62.06	45	91.79	2	56.97	20
* Kentucky	2,700,000	2,022,995	1,369,345	74.92	22	67.69	41	50.72	39
Louisiana	3,147,000	2,211,770	1,706,822	70.28	29	77.17	14	54.24	27
* Maine	848,000	810,661	553,144	95.60	1	68.23	39	65.23	2
* Maryland	3,259,000	2,253,150	1,675,873	69.14	31	74.38	25	51.42	34
Massachusetts	4,422,000	3,253,785	2,559,453	73.58	25	78.66	12	57.88	16
Michigan	6,530,000	5,888,808	3,801,658	90.18	3	64.56	46	58.22	15
* Minnesota	3,044,000	2,114,842	2,083,726	69.48	30	98.53	1	68.45	1
Mississippi	1,810,000	1,669,539	941,104	92.24	2	56.37	50	51.99	31
* Missouri	3,682,000	2,969,700	2,122,771	80.65	14	71.48	33	57.65	18
* Montana	591,000	526,841	384,377	89.14	5	72.96	27	65.04	3
Nebraska	1,163,000	902,626	650,776	77.61	16	72.10	29	55.96	24
Nevada	689,000	356,384	286,667	51.72	49	80.44	6	41.61	50
New Hampshire	722,000	543,790	388,904	75.32	20	71.52	32	53.86	29
* New Jersey	5,659,000	4,072,739	3,217,860	71.97	26	79.01	10	56.86	21
New Mexico	997,000	650,929	514,369	65.29	42	79.02	9	51.59	33
* New York	13,326,000	9,044,208	6,806,810	67.87	37	75.26	20	51.08	37
North Carolina	4,559,000	3,270,933	2,175,361	71.75	27	66.50	43	47.72	44
North Dakota	491,000		308,971					62.93	6
* Ohio	7,846,000	6,358,558	4,539,368	81.04	12	71.39	34	57.86	17
Oklahoma	2,452,000	1,949,989	1,255,676	79.53	15	64.39	47	51.21	36
* Oregon	1,961,000	1,608,693	1,226,527	82.03	10	76.24	18	62.54	7
* Pennsylvania	8,989,000	6,193,702	4,844,903	68.90	32	78.22	13	53.90	28
Rhode Island	733,000	542,216	410,489	73.97	24	75.70	19	56.00	23
South Carolina	2,386,000	1,395,714	968,529	58.50	46	69.39	37	40.59	51
South Dakota	498,000	442,790	317,867	88.91	6	71.79	30	63.83	4
* Tennessee	3,476,000	2,579,504	1,711,994	74.21	23	66.37	44	49.25	42
* Texas	11,487,000	7,900,167	5,397,571	68.77	33	68.32	38	46.99	45
* Utah	1,040,000	840,416	629,656	80.81	13	74.92	22	60.54	10
Vermont	391,000	348,619	234,561	89.16	4	67.28	42	59.99	13
Virginia	4,203,000	2,666,458	2,146,635	63.44	44	80.50	5	51.07	38
Washington	3,202,000	2,457,667	1,874,910	76.75	19	76.29	16	58.55	14
* West Virginia	1,433,000	1,025,230	735,774	71.54	28	71.77	31	51.34	35
* Wisconsin	3,490,000		2,211,689					63.37	5
Wyoming	365,000	239,974	188,968	65.75	40	78.74	11	51.77	32
TOTALS (ex.ND & WIS)	169,956,000	123,167,017	90,108,992	72.47		73.16		53.02	
TOTALS (w/ND & WIS)	173,937,000		92,629,652					53.25	

## Sources:

1984 VAP (Voting Age Population): Bureau of the Census, Series P-25, No.948  
1984 REG (Registration): Each state's Election Office, Reflects Number of Registered Voters  
1984 T/O (Turn-out): Each state's Election Office, Reflects total number of votes cast for President

\* States where mail registration is allowed for all voters.

Problems with contiguous registration which would magnify with statewide registration.

1. Most counties do not use street names in addresses.
  - a. Identifying where the registrant lives is mandatory so that the person is placed in the correct precinct.
  - b. Route 2 may be the dividing line for a precinct. Box numbers do not identify on which side of the road a person lives. Usually, mailboxes are all on one side of the road.
  - c. Registrants are sometimes reluctant to give telephone numbers.
  - d. Descriptions taken by the receiving registrar are not always adequate.
  
2. Transferring application cards is not always done in a timely fashion.
  - a. The State Board instructs that they should be sent by mail within 24 hours of receipt or hand delivered within 24 hours of the close of the books.
  - b. If the application is taken at a satellite sight and delivered to the office of the general registrar, it sometimes has taken as long as a week to be sorted and sent to the appropriate registrars office.
  - c. The U. S. mail service is not always dependable.
  - d. Applications have been lost in the mail and only after tracers have been placed can they be found. The U.S. Postal Service will not accept a tracer request until three days have passed.
  
3. The U.S. Postal Service has no plans to require the use of nine-digit zip codes.
  - a. Until nine-digit zip codes are required, there is no way to use these as a placement identifier in rural localities. If the voter cannot provide the nine-digit zip code when registering, there is no way to apply it.



To whom would statewide registration be beneficial?

The only large segment of the population which statewide registration would benefit are college students. In 1983, there were 54,214 undergraduate Virginia residents attending private and public resident institutions of higher learning. These same persons obviously attended high school in the last four years. Each public high school and most private high schools are visited (by the registrar) in the spring of each year to register all students who will be 18 by the next general election date.

**Schedule of Roster Preparation**

Day 31 Close of registration at 5:00 p.m.

Day 29 Localities which submit manual records mail documents to State Board.

Day 27 Key punch firm picks up manual records.

Day 26 - 22 Key punching.

Day 22 Key punch firm delivers tape to State Board by 5:00 p.m.

Day 22 Courier picks up tapes from automated localities.

Day 21 Courier delivers tapes to State Board by 9:00 a.m.

Day 21 DIT runs batch balance, State Board checks, DIT runs update to file.

Day 20 DIT delivers update to State Board by 9:00 a.m., State Board checks update and, if OK, DIT runs alpha and precinct rosters.

Day 19 Rosters print.

Day 18 Rosters print.

Day 17 Rosters print.

Day 16 Sunday

Day 15 DIT delivers 67 boxes of printed rosters to State Board.

Day 15 - 13 State Board sorts, checks and packages rosters.

Day 13 Courier picks up rosters for delivery to localities.

Day 12 Courier delivers rosters.

Day 11 Courier delivers rosters.

Day 10 - 2 Registrars check rosters, hand adding any computer omissions, lining through any deaths, out-of-state cancellations and felony convictions. Rosters are placed in binders and tabbed for easy access. Rosters are packaged with other election material.

Day 1 Election material is picked up by chief officers.

Day 0 Election Day

ELECTIONS

Table 5  
VOTER REGISTRATION INFORMATION

State or other jurisdiction	Mail registration allowed for all voters	Minimum state residence requirement (days)	Closing date for registration before general election (days)	Persons eligible for absentee registration(a)	Automatic cancellation of registration for failure to vote after _____ years
Alabama		1	10	D,S,T	
Alaska	*	30	30	(b)	2
Arizona		50	50	S,T	2
Arkansas		20	20	D	4
California	*	29	29	(b)	4
Colorado		32	32	D,S,T	2
Connecticut			21(c)	D	
Delaware	*		3rd Sat. in Oct. (c)	(b)	4
Florida			30	(d)	2
Georgia			30	B,D,R,S,T	3
Hawaii			30	B,D,E,R,S,T	2
Idaho		30	17/10(e)	B,D,S,T	4
Illinois		30	28	(f)	4
Indiana		30	29(g)	B,D,S,T	2
Iowa	*		10	(b)	4
Kansas	*	20	20	(b)	4
Kentucky	*	30	30	(b)	4
Louisiana			24(c)	D,T	4
Maine	*		Election day	(b)	
Maryland	*	29	29	(b)	5
Massachusetts			28	D,T	
Michigan		30	30	D,S,T	10
Minnesota	*	20	Election day	(b)	4
Mississippi		30	10	(f)	4
Missouri	*		28	(b)	
Montana	*	30	30	(b)	4
Nebraska			10	D,S,T	
Nevada		30	30	S,T	2
New Hampshire		10	10	B,D,R,S	
New Jersey	*	30	29	(b)	4
New Mexico			42	T	2
New York	*	30	30	(b)	4
North Carolina		30	21(h)	D	8
North Dakota(i)		30			
Ohio	*	30	30	(b)	4
Oklahoma			10	D	4
Oregon	*	20	Election day	(b)	2
Pennsylvania	*	30	40	(b)	2
Rhode Island		30	30	D	5
South Carolina			30	D,S,T	
South Dakota			15	S,T	4
Tennessee	*	50	30	(b)	4
Texas	*		30	(b)	4
Utah	*	30	5	(b)	4
Vermont			17	(d)	4
Virginia			31	(f)	4
Washington		30	30	(f)	2
West Virginia	*	30	30	(b)	4
Wisconsin	*	10	Election day	(b)	2
Wyoming			30	B,D,E,S,T	2
Dist. of Col.	*	30	30	(b)	4
Puerto Rico			50	(f)	2
Virgin Islands		45	45	S	4

Source: Adapted from *Easy Does It*. League of Women Voters Education Fund, 1730 M St., N.W., Washington, D.C. (Copyright 1984).

Key:

...—No residence requirement.

(a) In this column: B—Absent on business; D—Disabled persons; E—Not absent, but prevented by employment from registering; R—Absent for religious reasons; S—Students; T—Temporarily out of jurisdiction.

(b) All voters. See column on mail registration.

(c) Closing date differs for primary election. In Connecticut, 14 days; Delaware, 21 days; Louisiana, 30 days.

(d) Anyone unable to register in person.

(e) With precinct registrar, 17 days before; with county clerk, 10 days.

(f) No one is eligible to register absentee.

(g) Before deputy registrar, 45 days.

(h) Business days.

(i) No voter registration.

## APPENDIX H

Status of electoral board members and general registrars.

1. Opinion of the Attorney General dated 5/9/83.
2. Memorandum of the County Attorney of Fairfax County dated 5/23/85.

The materials attached indicate the dilemma of electoral board members and general registrars insofar as insurance coverage and representation is concerned.

Litigation is still pending in the federal courts (Kilgore v. McClelland et al., Civ. Action No. 83-0090-B, W. D. Va.) concerning these matters.

Available in the files of the Joint Subcommittee are memoranda of 11/11/85 and 12/13/85 relating to the issue of state or local status for these officials.

member of the Virginia House of Delegates warranted his dismissal from park authority employment and the withholding of federal loans and grants to the authority for failure to remove him.

ELECTIONS. ELECTORAL BOARD. MEMBERS AND GENERAL REGISTRAR ARE COUNTY OFFICERS. COUNTY ATTORNEY OR COMMONWEALTH'S ATTORNEY REPRESENTS LOCAL ELECTION OFFICIALS IN LITIGATION.

May 9, 1983

The Honorable Susan H. Fitz-Hugh, Secretary  
State Board of Elections

This is in reply to your letter concerning county election officials who have been named as defendants in a civil action filed in the United States District Court for the Western District of Virginia.<sup>1</sup> The suit challenges the actions of members of the electoral boards and the general registrars in both Lee and Scott Counties in the appointments of the registrars for the new four-year terms of office which began April 1, 1983.

The question has arisen as to who will represent these officials in the court proceedings. The county attorney for Scott County declines to accept any responsibility for defending the general registrar and the members of the Scott County Electoral Board in the present litigation on the ground that they are State, rather than county, officers and employees.<sup>2</sup> You ask my opinion on the following questions:

"1. Is a county electoral board to be considered a state or a local board, and are electoral board members and the general registrar state officers or county officers?

2. Which attorney, if any, is responsible for representing and defending the above election officials in civil litigation?"

There is no firm rule expressed in the cases by which one may, with confidence, determine in every situation that a particular public officer or employee is a State or local governmental official, and, in fact, each such determination tends to be controlled by the context in which the question is presented. Thus, many years ago police officers were held to be State and not municipal officers, although the locality selects and employs them and pays their salaries. See, e.g., Alexandria v. McClary, 167 Va. 199, 188 S.E.158 (1936); Burch v. Hardwicke, 71 Va. (30 Gratt.) 24, 34 (1878). Indeed, a member of the city council has been held to be not a municipal but a State officer. See Lambert v. Barrett, 115 Va. 136, 78 S.E. 586 (1913).

There are no cases of which I am aware in which a court has declared county election officials to be either State or local officers in a context analogous to the present one.<sup>3</sup>

The Scott County attorney relies upon a workmen's compensation case decided by the Industrial Commission of Virginia to support his view that registrars and electoral board members are State rather than local officials. In that case, O'Conner v. Arlington County Electoral Board, 60 OIC 333 (1981), the Industrial Commission upheld an opinion finding that a part-time assistant county registrar was an employee of the State Board of Elections, for purposes of allocating responsibility for payment of medical expenses of the individual, who was injured at a polling place. Whatever may be the merits of that decision,<sup>4</sup> it provides little guidance outside the confines of workmen's compensation law,<sup>5</sup> and the degree of support which it lends to the Scott County attorney's position is questionable because in the opinion the Industrial Commission expressly states that its holding is not inconsistent with a prior Opinion of the Attorney General that a city general registrar is to be considered an employee of the municipality and therefore subject to the rules and regulations of the municipality,<sup>6</sup> nor with Huffman v. City of Lynchburg (I.C. 548-559, 11/29/77), which held an election poll worker to be an employee of the City of Lynchburg. See O'Conner, supra, at 337.

Examination of the relevant constitutional and statutory provisions reveals the following. Article II, § 8 of the Constitution of Virginia (1971), states "[t]here shall be in each county and city an electoral board composed of three members, selected as provided by law..." and, further, "[e]ach electoral board shall appoint the officers and registrars of election for its county or city." (Emphasis added.) Similar language is used in the statutes prescribing the appointment, qualifications and duties of electoral board members and registrars, to the effect that those officials must be residents and voters of their particular counties and that their functions and powers are confined to their respective jurisdictions. See, e.g., §§ 24.1-29, 24.1-30, 24.1-32, 24.1-43, 24.1-45, 24.1-45.1, 24.1-46 of the Code of Virginia.

Prior Opinions of this Office, rendered by successive Attorneys General over a period of many years, hold these local election officials to be officers and employees of the county or city involved. See, e.g., Reports of the Attorney General 1981-1982 at 301; 1972-1973 at 325; 1970-1971 at 162; 1968-1969 at 54; 1967-1968 at 105; 1961-1962 at 208; 1960-1961 at 124; 1958-1959 at 236; 1957-1958 at 111. I find no reason to depart from this consistently held position<sup>7</sup> here. Accordingly, in answer to your first question, I am of the opinion that a county electoral board must be considered a local board rather than a State board, and electoral board members and the general registrar are county officers.

With regard to your second question, there is no statute which singles out local election officials for purposes of specifying who shall represent them in litigation.<sup>8</sup> Prior Opinions of this Office consistently have held that the Commonwealth's attorney, who has a general duty to represent

the interest of the Commonwealth in his locality, must provide necessary legal services in civil matters, including representation in litigation, to all public agencies and officials of his county absent a statutory prohibition to the contrary.<sup>9</sup> See, e.g., Reports of the Attorney General 1979-1980 at 90, 93; 1975-1976 at 58; 1974-1975 at 30, 86; 1973-1974 at 69; 1972-1973 at 87, 89; 1971-1972 at 74, 75, 341; 1970-1971 at 64; 1962-1963 at 22. In any county having a county attorney, that official succeeds to the Commonwealth's attorney's responsibility to advise and represent county boards, departments, agencies, officials and employees. See § 15.1-9.1:1; 1975-1976 Report of the Attorney General at 84; 1971-1972 Report of the Attorney General at 109.

A county electoral board and county election officials certainly would be included within the broad language of § 15.1-9.1:1 which states that the county attorney shall perform the duties of advising and representing "all boards, departments, agencies, officials and employees, of the county." Accordingly, it is my opinion that the Scott County attorney is responsible for defending Scott County election officials in the present civil litigation.<sup>10</sup> In Lee County, which has no county attorney and which has a population exceeding fifteen thousand,<sup>11</sup> there is no attorney directly responsible for representing any of the county boards or officials. The board of supervisors may, in its discretion, allocate funds to employ either the Commonwealth's attorney or private counsel to defend the county electoral board and electoral officials in the present litigation. See Reports of the Attorney General 1979-1980 at 90, 93; 1974-1975 at 30; 1970-1971 at 64; 1968-1969 at 13, 20; 1964-1965 at 51.

It should be noted that the responsibilities of the Attorney General with respect to civil litigation are specified generally in §§ 2.1-120 and 2.1-121, and in § 16.1-69.39:1. None of those statutes mentions the local electoral board as an agency which the Attorney General is obligated to represent.

Accordingly, in conclusion, I am of the opinion that the obligation to represent the local election officials in Scott County is with the Scott County attorney and the obligation in Lee County is with an attorney to be funded by the Lee County Board of Supervisors. Of course, nothing prevents the Scott County attorney, with the approval of his board of supervisors, or the Lee County officials from retaining private attorneys to assist in representing the local electoral officials.

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<sup>1</sup>See Kilgore v. Fitz-Hugh, et al., No. 83-0090-B (W.D. Va. filed March 30, 1983). You have also been named a defendant in the law suit.

<sup>2</sup>In a letter dated April 20, 1983, the county attorney suggests that I adhere to the long-standing policy of this

Office not to render official Opinions on matters in litigation, apparently on the ground that his motion to dismiss the county from the federal suit mentions his belief that county election officials are in fact State officers and employees. His concern in this regard is not well-founded, in that the question of who must represent the county general registrar and the county electoral board in litigation is not an issue before the court.

<sup>3</sup>See, however, Coleman v. Sands, 87 Va. 689, 13 S.E. 148 (1891), in which, although the matter is not at issue, the Court clearly treats the general registrar as a municipal officer connected with local public administration; and, more recently, Hardy v. Board of Supervisors of Dinwiddie County, 387 F.Supp. 1252, 1255 (E.D.Va. 1975), in which the court in construing former § 28 U.S.C. § 2281, which related to convening a three-judge court to restrain enforcement of a state statute by restraining the action of "any officer of such State," finds as follows: "A second requirement of the three-judge court statute is that the defendant shall be an officer of the State. The Board of Supervisors of Dinwiddie County and the Electoral Board of Dinwiddie County are, without doubt, local officials and not officers of the State." (Emphasis added.)

<sup>4</sup>The opinion twice misstates the law in its holding, by saying that the State Board of Elections determines the number, terms and duties of assistant registrars. See O'Conner, supra, at 336, 337. Section 24.1-45 provides that the county or city electoral board shall determine the number, set the term, and the general registrar shall establish the duties of assistant registrars.

<sup>5</sup>This decision of the Industrial Commission was not appealed but was instead overruled for future cases by the 1982 amendment to § 24.1-32.

<sup>6</sup>See 1972-1973 Report of the Attorney General at 325.

<sup>7</sup>Note that an Opinion in the 1949-1950 Report of the Attorney General at 69 expresses the view that electoral board members are State officers for purposes of former § 15-504, prohibiting paid officers of a county from entering into contracts with the county governing body. This Opinion was overruled by an Opinion found in the 1958-1959 Report of the Attorney General at 236. See 1961-1962 Report of the Attorney General at 208.

<sup>8</sup>Note, in contrast, § 15.1-66.4 which provides for appointment of counsel to defend constitutional officers in civil actions arising out of performance of their official duties.

<sup>9</sup>Note, however, that the Commonwealth's attorney now is relieved of this responsibility in any county whose population exceeds fifteen thousand, although the board of supervisors thereof may retain him to represent county interests, as well as in any county which has created a county attorney's office and appointed a county attorney. See §§ 15.1-8.1(A) and 15.1-9.1:1; Reports of the Attorney General 1979-1980 at 90; 1975-1976 at 84.

<sup>10</sup>The Scott County attorney resists this conclusion on the additional grounds that the electoral board and the general registrar are subject to supervision of their practices by



the State Board of Elections and "do not operate under the jurisdiction of the county [the board of supervisors]." This circumstance certainly is not determinative of the question, and in fact other local boards, such as the school board and the welfare board, are beyond the supervisory jurisdiction of the board of supervisors in terms of policy-making and operations and yet have been included among those local boards which a Commonwealth's attorney or county attorney is to represent, absent statutes to the contrary. See, e.g., Reports of the Attorney General 1979-1980 at 89; 1975-1976 at 80; 1973-1974 at 69; 1972-1973 at 87; 1971-1972 at 75, 341.

<sup>11</sup>See fn. 9, supra.

ELECTIONS. ELECTORAL BOARD. PUBLIC OFFICERS.  
COMPATIBILITY. PART-TIME GOVERNMENT EMPLOYEES MAY NOT BE  
APPOINTED TO OR SERVE ON ELECTORAL BOARDS. ACCEPTANCE OF  
SECOND INCOMPATIBLE OFFICE VACATES FIRST.

March 4, 1983

The Honorable Susan H. Fitz-Hugh, Secretary  
State Board of Elections

This is in reply to your recent request for my opinion on the scope of the prohibition contained in Art. II, § 8 of the Constitution of Virginia (1971) and in § 24.1-33 of the Code of Virginia, as it relates to three part-time employment situations which you specify.

The pertinent language of Art. II, § 8, which is virtually identical to the text of § 24.1-33, reads as follows:

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

You refer to prior Opinions of this Office which hold that government employees cannot be appointed to the election offices listed in Art. II, § 8, and you ask that this interpretation be clarified further, in answer to the following questions:

"1. An electoral board member is offered a part-time job with the General Assembly after his appointment. If, in fact, the electoral board member takes the position does he have to resign his electoral board position?

2. If an electoral board member is hired as a substitute teacher after his appointment to the board,



COMMONWEALTH OF VIRGINIA  
COUNTY OF FAIRFAX

OFFICE OF THE ELECTORAL BOARD AND GENERAL REGISTRAR  
4031 UNIVERSITY DRIVE  
FAIRFAX, VIRGINIA 22030

385-8100

ELECTORAL BOARD

JAMES D. SWINSON, CHAIRMAN  
NANCY D. WHITE, VICE CHAIRMAN  
JANE G. VITRAY, SECRETARY

GENERAL REGISTRAR  
LILYAN Y. SPERO

March 12, 1985

MEMORANDUM

TO: David Stitt  
County Attorney

FROM: Jane G. Vitray *JGV*  
Secretary

SUBJECT: Insurance coverage of General Registrar  
and Electoral Board Members

The attached letter from Alice Lynch, Chair of the Virginia General Registrars Association raises the question of liability and other insurance coverage for the General Registrar and the Electoral Board Members.

We would appreciate your advice on this matter.

Attachment

RECEIVED

MAR 11 1985

Electoral Board &  
General Registrar  
Fairfax County

All Registrars

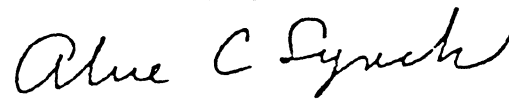
I inquired earlier in the year as to whether you feel you and your employees currently have insurance coverage at the local level, and to send me copies of relevant policies. After reviewing those policies with the Richmond City Attorney's office, it remains questionable as to the extent to which the insurance actually covers registrars, due to the fact that the registrars are not appointed by the local governing body and are not appointed by persons who are so appointed. Unless the office of general registrar or electoral board is specifically listed as an insured under the policy, or unless the policy covers all elected and appointed officials with no exclusions, you may not be covered under the local policy of insurance. This issue has been in litigation in Scott County, and has not been resolved to this point.

It is too late in this session of the General Assembly to ask for legislation to be introduced to correct this problem. I do think we should attempt to draft legislation for the next General Assembly session to correct this problem, as well as working toward the possibility of getting it resolved administratively at the state level prior to that time.

In the meantime, you may wish to ask your local county or city attorney or risk management department to check with their insurance company to make sure that registrars are covered under local liability policies. You may also wish to check into the possibility of obtaining a personal umbrella coverage on your own homeowners and auto insurance. This umbrella coverage is fairly inexpensive and may cover certain liability situations arising out of your employment.

I am counting on you to let your electoral board know the situation, so that they may also deal with this issue. If you have any questions, please contact me.

Very truly yours,

  
Alice C. Lynch

RECEIVED

FAIRFAX COUNTY, VIRGINIA

MAY 24 1985

Electoral Board &  
General Registrar  
Fairfax County

MEMORANDUM

TO: Jane G. Vitray DATE May 23, 1985  
Secretary, Electoral Board

FROM: David T. Stitt DTS Ref. No. 17144  
County Attorney

SUBJECT: Insurance Coverage of General Registrar and  
Electoral Board Members

REF: Your memorandum dated March 12, 1985, with  
attached copy of March 11, 1985, letter from  
Alice C. Wench

INQUIRY:

1. Whether the members of the Electoral Board and General Registrar are covered by current County liability insurance policies. The inquiry raises two other questions:

2. Whether the Board of Supervisors may obtain insurance for or self-insure members of the Electoral Board or the General Registrar.

3. Who, if anyone, is responsible for representing members of the Electoral Board and the General Registrar.

OPINION:

1. Members of the Electoral Board and the General Registrar are not specifically named insureds under any County insurance policies. As a result, it is doubtful they are covered.

2. There is no legal authority directly on point. In the opinion of this office, no.

3. There is no statutory or judicial authority directly on point. The Attorney General has opined that representation of such officials is the responsibility of the local Commonwealth or County or City Attorneys. In the opinion of this office, this position is incorrect and if any public attorney has the duty to represent such officials, it is the responsibility of the Attorney General.

BACKGROUND:

Members of the Electoral Board are appointed by a majority of the Circuit Court judges of the judicial circuit for each county and city. Va. Code § 24.1-29 (Supp. 1984). The General Registrar is appointed by the Electoral Board. Va. Code § 24.1-32 (Supp. 1984). The State Electoral Board supervises and coordinates the work of county and city Electoral Boards and Registrars. Va. Code § 24.1-19 (1980). Members of the Electoral Board are compensated from the state treasury. Va. Code § 24.1-31 (Supp. 1984). Counties and cities may supplement the salaries of the Secretaries of the Electoral Board. The General Registrar's salary is paid by the county or city, which in turn is reimbursed from the State. Va. Code § 24.1-43 (Supp. 1984). The county or city may supplement that salary above what the state will reimburse. Id. The General Registrar may be removed from office by the Electoral Board. Va. Code § 24.1-34 (Supp. 1984). Neither members of the Electoral Board nor the General Registrar may be employees of the county or city. Va. Code § 24.1-33 (1980).

The County Attorney is responsible for advising the Board of Supervisors and all boards, departments, agencies, officials, and employees of the County in civil matters, for drafting and preparing County ordinances, and defending or bringing actions in which the County or any of its boards, departments, agencies, officials, and employees are parties. Va. Code § 15.1-9.1:1 (Supp. 1984). The County Board of Supervisors may provide liability insurance, or may provide self-insurance, for certain or all of its officers and employees, and volunteers and members of the boards and commissions recognized by it. Va. Code § 15.1-506.1 (1981).

All legal service in civil matters for the Commonwealth, the Governor and every state department, institution, division, commission, board, bureau, agency, entity, official, court or judge, including the conduct of all civil litigation in which any of them are interested, shall be rendered by the Attorney General. Va. Code § 2.1-121 (Supp. 1984).

DISCUSSION:

At the outset, it is important to distinguish two concepts - responsibility for representation and authority to indemnify. The responsibility to provide representation is not necessarily tied to the authority to indemnify. Unfortunately, the Virginia statutes as to both representation and indemnification are vague and fragmentary.

The Attorney General has opined that the Commonwealth's Attorney, or the County Attorney, if one has

been appointed, is responsible for defending the General Registrar and Electoral Board of Scott County. Opinion dated May 9, 1983, to the Honorable Susan H. Fitz-Hugh, Secretary, State Board of Elections, 1982-1983 Op. Atty. Gen. 225 (copy attached). The opinion notes that:

There is no firm rule expressed in the cases by which one may, with confidence, determine in every situation that a particular public officer or employee is a state or local governmental official, and in fact, each such determination tends to be controlled by the context in which the question is presented.

1982-1983 Op. Atty. Gen. 225.

This office cannot agree with the analysis and opinion of the Attorney General. Both the Registrar and Electoral Board are appointed to carry out state mandates as to elections according to state statutes and regulations, and are appointed and regulated directly or indirectly by state, rather than local, officers. Under the analysis used by the Attorney General, judges and constitutional officers such as Commonwealth's Attorneys would be county officers whom the County Attorney must represent pursuant to Va. Code § 15.1-9.1:1 (Supp. 1984). However, such is clearly not the case. Va. Code §§ 2.1-121 (Supp. 1984), 15.1-66.4 (1981) and 16.1-69.39:1 (1982). To the extent that existing law places a duty on a public attorney to represent General Registrars and Electoral Boards, it is the duty of the Attorney General. See Va. Code § 2.1-121 ("...every state...board,...official....").

Under Va. Code § 15.1-506.1 (1981), the Board of Supervisors may only self-insure or obtain insurance for its officers and employees and boards and commissions it recognizes. Opinion dated August 30, 1983, to the Honorable David T. Stitt, County Attorney for Fairfax County, 1983-1984 Op. Atty. Gen. 78 (copy attached). As the General Registrar and the Electoral Board are neither county officers or employees nor a board or commission, the Board of Supervisors is without legal authority to obtain insurance for or to self-insure them.

Current County insurance policies do not include the General Registrar or Electoral Board as named insureds. As discussed supra, they do not fit within the general rubric of "county officers, agents, or employees." Therefore, it is doubtful that either is covered by any policy. We note that this issue is being litigated in the Scott County Electoral Board case. However, no decision has been rendered.



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# Backgrounder

States Information Center  
The Council of State Governments  
Iron Works Pike  
P.O. Box 11910  
Lexington, KY 40578  
(606) 252-2291

**Date:** November 1985  
**Topic:** REGIONAL PRIMARIES  
**Infokey:** Elections Primaries  
Primaries

## REGIONAL PRIMARIES

Americans have become accustomed to talk of "Super Sunday," the January occasion that crowns the undisputed champion of professional football. Now, if a group of southern lawmakers have their way, "Super Tuesday" will be a household word in 1988. "Super Tuesday" would be a day early in the presidential nominating process when as many as 19 southern states would band together to hold primaries on the same day, potentially selecting the presidential nominees as a result of that one day's voting.

Under the current presidential primary system, considerable weight is afforded states that are not traditional key states in terms of population, cultural or political diversity, and economic activity. New Hampshire, with its first in the nation presidential primary every fourth February, and Iowa, with its cold weather caucuses even earlier in presidential election years, are two obvious examples of states with a disproportionate impact on the presidential nominating process. Stories, often less legendary than we would expect, such as the New Hampshire resident unsure about voting for a particular candidate because he had only met the candidate twice, indicate the importance that candidates place on these early tests. Senator Eugene J. McCarthy's 1968 showing in New Hampshire suggested to President Lyndon B. Johnson that the time was ripe for him to retire. Senator Edmund S. Muskie's fateful response to New Hampshire newspaper publisher William Loeb's attacks led to Senator George S. McGovern's nomination in 1972. Jimmy Carter's strong showing in Iowa in 1976 showed that he was a credible candidate, and Ronald Reagan's quick repartee in a debate sponsored by the Nashua Telegraph in the 1980 campaign in New Hampshire earned him his quick start toward the nomination.

Many question, however, why states in which the national news media covering the events often outnumber the voters, should play the role of kingmaker when states with considerably greater numbers of electoral votes are relegated to the functional equivalent of political oblivion: late primaries. A recent move initiated by the Southern Legislative Conference of The Council of State Governments seeks to remedy this very situation through establishment of a southern regional primary.

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\*This CSG Backgrounder was compiled by Edward Feigenbaum, Program Manager for Legal Affairs, Office of Research and State Services.

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The idea of regional primaries is not new. The national primary concept has been a perennial victim of apathy. The regional primary concept has also been set forth in various permutations, among them the establishment of a regional primary for each of the nation's regions. Alabama Governor George C. Wallace and then Governor Jimmy Carter of Georgia seriously floated the idea of a stand-alone southern regional presidential primary in 1983. Alabama, Florida, and Georgia were able to synchronize their primary dates in 1984, giving observers a chance to examine on a smaller scale how such a concept might occur and the impact that its implementation could conceivably have upon the nominating process.

A combined southern regional presidential primary may well select as many as one-third of the total number of delegates to the respective national party conventions, a figure guaranteed to attract the attention of party leaders, the media, and the candidates themselves. Florida Governor Bob Graham, a strong advocate of a regional primary, suggests that the character of the presidential nominating process would be fundamentally altered with the participation of states that would choose just three-fourths of the total number of southern delegates. Given the inherent regional advantages in adopting a uniform primary date, why hasn't the southern region -- or any other part of the country -- adopted the regional primary system? Part of the reason is the maze of institutional barriers.

Not every state holds a primary election. Not every state holds a primary election in which presidential candidates appear on the ballot. Not every state selects delegates committed to particular candidates through a primary, even though the names of their presidential candidates may be on the ballot in a "beauty contest." The manner of including candidates on the ballot varies widely across states (see Table 1). The selection of primary dates is often governed by statute or, even worse, from the perspective of potential alternation, by constitution. Probably no state would be able to participate in a "Super Tuesday" event without significant alterations in their laws and procedures.

Attitudinal barriers also persist. National party leaders fear that the type of significant changes in the process forecast by Governor Graham would have a deleterious effect on their ability to control party activity.<sup>1</sup> States within the region that might have otherwise had an earlier primary date than the one selected as part of the "Super Tuesday" proposal would probably find the impact of their state's activities lessened by moving their date back and joining a group of states in a joint effort.

Many of the institutional and attitudinal barriers appear now to be less critical and, indeed formidable, than they might have been in the past. The drive for the southern regional presidential primary is being led by a united Southern Legislative Conference, with the endorsement of the Southern Governors' Association, and the support of several southern secretaries of state (the chief election officers in their respective states), key Democratic National committee members from Arkansas, Louisiana, Mississippi, South Carolina, Tennessee, and Virginia, and Republican representatives from Kentucky and Texas. Publicity has been widespread, and the news media have been extremely receptive to the concept, as evidenced by the plethora of favorable editorials in newspapers throughout the region.



While several pieces of legislation are pending in Congress for various forms of regional primaries, the impetus for the southern regional presidential primary will come principally from the efforts of the Southern Legislative Conference, and will be approached on a state level through consensus and agreement, rather than be imposed under a federal mandate. Those leading the effort are also attempting to expedite consideration so that the concept is not evaluated on the basis of what particular presidential candidate or candidates it might affect. Generally, the imposition of a southern regional presidential primary scheme would be expected to strengthen conservative candidates, who traditionally fare well in the south, and to reduce the influence of traditional liberal Democratic party candidates, who expect to draw more votes from their traditional northern strongholds.

Apart from these specific political effects, what are the advantages and disadvantages of establishing a southern regional presidential primary? There are many issues that surround the concept.

In general, a southern regional presidential primary should appeal to the candidates themselves, because they would be able to consolidate their campaign schedules, saving money and reducing the physical demands placed on them by campaigning across several time zones. Candidates should also be able to make more effective use of their advertising resources because of the cross-utilization of regional media markets. Advertising on a regional basis for such a primary would also carry more weight than it would in New Hampshire or Iowa because of the personal nature that a campaign in those two states is expected to assume. Candidates would also be able to focus on particular positions of concern to voters in the region, enabling the voters to learn what they need to know about a particular candidate's stand on issues of local or regional, rather than perhaps just national and international, importance.

Lesser-known candidates would not necessarily be harmed by the regional primary. Voter turnout would also likely increase because of the increased attention that would be devoted to the campaign by the regional media. If a front-runner emerges after the southern regional presidential primary, it will be on the basis of the vote in a number of states, not just the reflection of a handful of voters under a media siege in two vastly disparate states that are not particularly representative of the rest of the country -- or even of a given region. The length of the overall primary/pre-convention campaign period would also likely be reduced. Finally, the concern of Texas Governor Mark White and others that the current primary process where late races result in many states "getting the leftovers" -- i.e. voting in a race that is likely to have been decided long before, or one in which several early prospects have long since dropped by the wayside -- is likely to be significantly eased.<sup>2</sup>

On the downside, the regional system would have the effect of weakening the national party organization, and regional pride could turn into regional polarization in a closely-contested convention floor battle. A candidate with special regional ties to the South might be particularly advantaged, such as a Jimmy Carter. Favorite son candidates may emerge as spoilers, rather than legitimate candidates for nomination. States may end up having two primaries, one for presidential preference and delegate selection, and another, later in the process, for local races, thus discouraging voter turnout and increasing voter burnout. A southern regional presidential primary might also spur another region to also establish a regional primary, perhaps even earlier than

the southern date, stealing the thunder from the region and creating the possibility that the South may be almost entirely overlooked if a more lucrative group of states may be voting shortly before the South.

The Southern Legislative Conference Regional Primary Task Force has arrived at a single primary date palatable to most southern states, the second Tuesday in March, 1988. The task force also has approved Saturday, March 12 for those states unable to hold a primary on a Tuesday. Final approval by the SLC is expected at their Executive Committee meeting in early December, 1985. After a common date is agreed upon, the taskforce will work with each of the states to persuade them to either change their primary date to the suggested common date, or to actually shift from a convention or caucus arrangement to a primary on the date that is selected (see Tables 2 and 3).

The single most dominate characteristic of any method of nominating or electing a president is that no system is totally fair or will gain the support of all involved. Given the impressive array of support behind the southern regional presidential primary, however, change -- even one as potentially major as "Super Tuesday" -- appears to be on the horizon.

#### Notes

1. Barnes, Robert, "Super Primary with Clout Catches Governors' Interest," St. Petersburg Times, September 10, 1985.
2. Diehl, Kemper, "Early Southern Primary Would Give States a Vote," San Antonio Light, October, 1985.

#### RESOURCES

DiClerico, Robert E., and Eric M. Uslander. 1984. Few are Chosen: Problems in Presidential Selection. McGraw-Hill Book Company: New York.

Traeger, John. "SLC Establishes Regional Primaries Task Force". Southern View, Vol. III, No. 10. October 11, 1985.

Wayne, Stephen J. The Road to the White House: The Politics of Presidential Elections. Second Edition. St. Martin's Press: New York. 1984.

Yadlosky, Elizabeth, and Pamela Espenshade. Nominating Presidential Candidates: Constitutional Issues Which May be Raised by Some Proposals to Change the Existing System. Congressional Research Service, U.S. Library of Congress: Washington, D.C. Report No. 85-63 S. March, 1985.

Price -- \$3.50

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TABLE 1

## CHECKLIST OF PRESIDENTIAL PRIMARY SELECTION RULES AND PROCEDURES

States	type of primary				ballot access requirements				
	Pres. Pref. Only	Del. Selec. Only	Pres./ Del. Comb.	Pres./ Del. Sep.	Mandatory Selec.	Petition Option	Petition Only	Filing Fee	Communication
ARKANSAS	X			D			A	A	
CALIFORNIA			X		X	X			X
DISTRICT OF COLUMBIA		X					X		
FLORIDA	X				X				X
GEORGIA	X			D	X				X
IDAHO	X				X	X			X
ILLINOIS				X			X		
INDIANA	X						X		
KENTUCKY	X				X	X		X <sup>1</sup>	
LOUISIANA		D							
MARYLAND				X	X	X		A	X
MASSACHUSETTS	X				X	X			X
MONTANA	X						X		
NEBRASKA				X	X	X			X
NEVADA	X				X	X			
NEW HAMPSHIRE				X			X	X	X
NEW JERSEY				X			X		X
NEW MEXICO	X				X	X			
NEW YORK		X							
NORTH CAROLINA	X				X	X			
OHIO		X	X <sup>2</sup>						
OREGON	X				X	X			
PENNSYLVANIA				X			X	X	X
RHODE ISLAND				X	X	X			X
SOUTH DAKOTA			X		X				
TENNESSEE									
VERMONT									
WEST VIRGINIA									
WISCONSIN									

Symbols: D = Democratic Party, A = alternative procedure.

Notes: <sup>1</sup>deposit refunded if candidate obtains three percent or more of the total vote; <sup>2</sup>at large delegate selection combined.

SOURCE -- Ballot Access, Volume 1, Administrative Issues, Problems, and Recommendations, Federal Election Commission, 1978.

TABLE 2  
PRESIDENTIAL NOMINATING PROCESS

<u>State</u>	<u>1984 Method*</u>	<u>Current Timing</u>	<u>1988 Date with Current Timing</u>
Alabama	Primary	2nd Tuesday, March	March 8
Arkansas	Caucus**	Tuesday two weeks preceding 2nd Tuesday in June	May 31
Florida	Primary	2nd Tuesday, March	March 8
Georgia	Primary	2nd Tuesday, March	March 8
Kentucky	Caucus	3rd Saturday, March	March 19
Louisiana***	Primary	1st Saturday, April	May 7
Maryland	Primary	2nd Tuesday, May	May 10
Mississippi	Caucus	3rd Saturday, March	March 19
North Carolina	Primary	Tues. after 1st Mon. May	May 3
Oklahoma	Caucus	2nd Tuesday, March	March 8
Puerto Rico	Primary	3rd Sunday, March	March 20
South Carolina	Caucus	3rd Saturday, March	March 19
Tennessee	Primary	1st Tuesday, May	May 3
Texas	Primary (R) Caucus (D)	1st Saturday, May 1st Saturday, May	May 7 May 7
Virginia	Caucus	4th Saturday, March	March 26
West Virginia	Primary	2nd Tuesday, May	May 10

\* For "Caucus," this chart shows the date of the start of the caucus process.

\*\* Method in Arkansas changing to Primary for 1988.

\*\*\* In 1984, was 1st Saturday in May in Louisiana; for 1988, it is to be the first Saturday in April.

\*\*\*\* In 1984, was 1st Tuesday in June in West Virginia; for 1988, it is to be the second Tuesday in May.

TABLE 3  
DATE OF STATE AND LOCAL PRIMARIES IN 1988

<u>State</u>	<u>Timing</u>	<u>Date</u>
Alabama	1st Tuesday, September	September 6
Arkansas*	Tuesday two weeks preceding 2nd Tuesday, June	May 31
Florida	1st Tuesday, September	September 6
Georgia	2nd Tuesday, August	August 9
Kentucky	1st Tuesday after 4th Monday in May	May 24
Louisiana	3rd Saturday, October	October 15
Maryland*	2nd Tuesday, May	May 10
Mississippi	1st Tuesday, June	June 7
North Carolina*	Tuesday after 1st Monday, May	May 3
Oklahoma	4th Tuesday, August	August 23
Puerto Rico	2nd Sunday, June	June 12
South Carolina	2nd Tuesday, June	June 14
Tennessee	1st Thursday, August	August 4
Texas*	1st Saturday, May**	May 7
Virginia	2nd Tuesday, June***	June 14
West Virginia	1st Tuesday, May	May 3

\* Presidential primary scheduled on same day.

\*\* Republican presidential primary held at this time in 1984; Democrats started caucus process at this time in 1984.

\*\*\* City Council primaries are the 1st Tuesday in March. In 1988, this will be March 1.

## APPENDIX J

### *Party Primary*

§ 24.1-176. Party to furnish names of chairmen to the State Board. – 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, and during the remainder of the year, it shall notify the Board of any changes in such names and addresses.

At least 120 days prior to the 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 110 days and not less than 90 days before the date set for the primaries.

§ 24.1-176.1. *Party determination to conduct direct primary.* – A. No later than October 15 of the year next preceding a regularly scheduled election for United States Senator, Governor, Lieutenant Governor or Attorney General, the state chairman shall notify the State Board of Elections whether or not the party has adopted a direct primary as its method of nomination for such office.

B. For any other office, at least 120 days prior to the date for a primary, the State Board 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 less than 90 days before the date set for the primaries.

§ 24.1-176.2. *Individual call to conduct direct primary for United States Senator, Governor, Lieutenant Governor or Attorney General.* – A. An individual may call for a primary to be held for his party's nomination for United States Senator, Governor, Lieutenant Governor or Attorney General in the event his party has not adopted the direct primary method of nomination.

An individual call for a primary shall be made by filing with the State Board of Elections, on or before January 15 of the year of the election, the following:

- (i) his declaration of candidacy as provided in § 24.1-184 ;
- (ii) the petition for his candidacy and for the calling of a primary as provided in subsection B of this section; and
- (iii) a receipt indicating the payment of his filing fee as provided in § 24.1-199.

B. To call for a primary an individual must file, as provided in subsection A of this section, a petition on a form prescribed by the State Board, signed by individuals equal in number to one percent of the number of voters registered within the Commonwealth as of January 1 of the year next preceding the primary and including at least 2000 voters from each congressional district in the Commonwealth. The petition shall call for a primary and for the candidacy of the named individual and contain the statement: "I, as a member of the [name of party] Party and qualified voter, petition that a primary be held for the office of [name of office] and that the name of [name of individual seeking the party nomination] be printed on the primary ballot." The petition shall list the residence address of each qualified voter signing the petition. Each signature to the petition shall have been witnessed by a person who is himself a qualified voter and a resident of the same congressional district as the voter whose signature is witnessed and whose affidavit to that effect appears on each page of the petition.

C. Upon verification of the petition and no later than February 15 of the year of the election, the State Board shall order the primary be held and notify the secretary of each local electoral board so that local notice may be posted as provided in § 24.1-177.

§ 24.1-177. State Board to order election. – The State Board of Elections shall after receipt of the notice provided for in § 24.1-176.1 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 the courthouse of such county or city, or

**publish such notice in a newspaper of general circulation in such county or city.**

## APPENDIX K

**§ 24.1-172.1. Party may act only by convention or caucus in certain instances; precinct as unit of representation.—Notwithstanding the provisions of § 24.1-172, a political party may use only the party convention or party caucus method and no other in (i) nominating candidates other than by primary and (ii) selecting delegates to state legislative district, congressional district, state, or national party conventions. The unit of representation at any convention or caucus shall be the voting precinct. Representation among precincts may be allocated on the basis of criteria established by party rules, provided that each voting precinct shall be entitled to at least one voting delegate. The party by rule also may provide supplementary procedures to ensure that a county or city as a whole not be deprived of the full number of delegate votes to which its constituent precincts are entitled in the event that one or more precincts fail to select delegates or cast votes equal in number to the delegates or delegate votes which they have been allocated.**

**“Party caucus” means any method which requires the prefiling of candidacies and a secret ballot by party members, as defined by party rules, and which provides for proper notice, reasonable hours, and a convenient polling place or places. A polling place may be designated for convenience to serve more than one voting precinct, but separate facilities shall be provided so that party members may and shall vote by precinct at the common polling place.**