

**REPORT OF THE  
JOINT SUBCOMMITTEE  
STUDYING**

# **Election Laws**

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



## **Senate Document No. 20**

**COMMONWEALTH OF VIRGINIA  
RICHMOND  
1989**

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## CONTENTS

I.	Authority for Study and Background	1
II.	Summary of Recommendations	3
III.	Discussion of Recommendations I and II	6
APPENDIX A		A 1
	SJR 58 (1988)	
APPENDIX B		B 1
	Recommended Legislation	
	Campaign finance	B 1
	Continuing study	B 6
	Absentee voting	B 8
	Definitions	
	Candidate	B 13
	Special election day	B 14
	Investigations	B 17
	Forfeiture of office	B 19
	Representation; redistricting	B 20
APPENDIX C		C 1
	Chart of Changes in the Fair Elections Practices Act, 1969-1988	

Report  
of  
The Joint Subcommittee Studying Election Laws  
To  
The Governor and the General Assembly of Virginia  
Richmond, Virginia  
January 1989

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

AUTHORITY FOR STUDY AND BACKGROUND

During the 1988 Session five resolutions were introduced which called for study of one or more aspects of the election laws. These resolutions focused on campaign finance laws, the status of local election personnel, and absentee ballot legislation. The House Committee on Rules ultimately reported a substitute for Senate Joint Resolution No. 58 (Patron: Senator Andrews), and the General Assembly agreed to the consolidated study. See Appendix A, SJR 58.

The issue of campaign finance regulation was given immediacy in the 1988 Session as the result of increased campaign spending during the 1987 General Assembly contests. In addition to the several study resolutions, two bills were introduced and carried over to the 1989 Session which provided for public financing in elections for Governor, Lieutenant Governor, Attorney General and the General Assembly. These were Senate Bill No. 298 (Patron: Senator Marye) and House Bill No. 967 (Patron: Delegate Brown) which died in committee at the outset of the 1989 Session.

In addition, the 1988 General Assembly added a new reporting requirement to the Fair Elections Practices Act (FEPA). Senate Bill No. 80 (Patron: Senator Gartlan) was enacted to require political party committees to file a report with the State Board of Elections of any contribution received by them that is designated for a specific candidate. See § 24.1-257.3, Code of Virginia.

Concerns about the status of local election personnel emanate from three sources. First, there has been the litigation that followed the 1981 governor's election and the subsequent shifting to a majority of Democrats on local electoral boards. The federal Fourth Circuit Court of Appeals held that general and assistant registrars cannot be denied reappointment on partisan political grounds and that the defendant electoral board members and general registrars were state agents or employees to the end that state, rather than local, liability insurance coverage applied in the context of the litigation. McConnell and Kilgore v. Adams, et al., 829 F.2d 1319 (1987). The U. S. Supreme Court denied the Commonwealth's petition for review May 16, 1988, and the Fourth Circuit opinion stands. 56 USLW 3789.

Second, the demands for services made on local registrars have increased with state law changes to require more times and sites for registration and with the introduction of more sophisticated registration and election equipment and procedures.

Third, there is a possibility, some say probability, that Congress will act this year to require a uniform poll closing time nationwide. A 9:00 p.m. or later poll closing time in Virginia would mean that two shifts of officers of election might be necessary.

Reflecting some of these concerns, the Voter Registrars Association of Virginia discussed with the Subcommittee the concept of local directors of election who would perform the registrars' duties and the procedural duties of local electoral boards. The boards would be policy, and not administrative, agencies. In some localities the registrar already fulfills this role in practice, and this proposal warrants careful consideration. The directors could be categorized as state employees. Localities now pay the costs of the registrars' offices and assistants. Major cost factors enter the picture if these office costs are transferred to the state or if additional officers are required by extended polling hours.

Absentee ballot laws were reviewed by the Subcommittee. A number of bills were introduced in the 1988 Session, and several were enacted, to tighten procedures for the handling of absentee ballots following problems involving absentee voting during the 1987 elections. The two major changes enacted were (i) the requirement that voters who will be absent on election day for vacation or business reasons must apply in person for an absentee ballot and (ii) a provision that absentee ballots must be mailed directly to the voter and not in care of any other person.

Prior to these 1988 changes, a voter applying for an absentee ballot for vacation or business reasons could request an absentee ballot by phone or mail and apply for his ballot by mail. Ballots could be sent to the voter in care of other parties at any address. Since the 1988 changes, a number of voter complaints have questioned the in-person application requirement and anomolous cases have come to light in applying the revised law. For example, a professor on sabbatical leave and teaching out-of-state must apply in person for an absentee ballot, while a student away in college can write to his home jurisdiction and apply by mail for an absentee ballot.

## SUMMARY OF RECOMMENDATIONS

The Subcommittee submits the following recommendations:

I. Campaign finance disclosure. The Subcommittee recommends one revision in the present Fair Elections Practices Act: the law should be amended to restore the requirement that the major political parties file reports of their campaign receipts and expenditures. See Appendix B, p. B 1, Recommended Legislation.

This change will eliminate a gap in present reporting requirements and produce a more complete picture of how election campaigns are being financed. Virginia's approach to regulating campaign finances has been disclosure -- requiring that information be available to the public to show who is contributing to candidates and who is spending money to influence the election. It is important to know who has contributed directly to the candidates. It is also important to know who is spending money to influence the outcome of the election. Present law requires PACs and others to report and should apply to the political party committees. They are major players in campaigns and in the campaign finance picture.

The Subcommittee is not prepared at this time to go further in its recommendations or to depart from the basic philosophy of Virginia's campaign finance law which is to spread all relevant information about campaign finances on the public record. No evidence was presented to the Subcommittee to justify a prohibition against contributions by any particular group, the setting of limits on the amounts that individuals or groups are allowed to contribute to candidates, or the public financing of campaigns and limiting of campaign spending.

II. Local election personnel. The Subcommittee believes that a possible restructuring of the local electoral boards and registrars offices deserves further study. A resolution is submitted to continue this Subcommittee to explore how a system of local directors of election might operate and the fiscal impact of changing present funding provisions. See Appendix B, p. B 6.

III. Absentee ballot laws. A proper balance must be maintained between the goal of providing absentee ballots to those who cannot vote in person on election day and the need to prevent misuse of absentee ballot procedures. Testimony before the Subcommittee indicated that the 1988 change to provide that a ballot can be sent only to the applicant appears to be working well. The practice of having multiple absentee ballots sent to one person has been stopped.

On the other hand, many voters have been inconvenienced by the reinstatement of the requirement that persons who will be away on vacation or business on election day must apply in person for an absentee ballot. The in-person application requirement was adopted to prevent voters from voting in concert with a third party and to allow the voter to cast his absentee ballot in person in advance of the election.

The Subcommittee proposes a compromise approach to this problem. First, repeal the in-person application requirement. Second, require the applicant who will be away on vacation or business to state where he will be on election day. Present law requires this type of information from all other categories of absentee ballot applicants. It is hoped that requiring this information under oath on the application will discourage casual abuse by persons who state they will be absent on election day when that is not the case. See Appendix B, p. B 8.

IV. Miscellaneous matters. Several other issues were brought to the Subcommittee's attention, and legislation is recommended on the following issues:

§ 24.1-1(2). Definitions; candidate. The present definition of candidate is broadly stated and can be construed to include write-in candidates as well as persons seeking party nomination, party nominees, and independent candidates who qualify for the ballot by petition. Generally a write-in candidate has not participated in the campaign process and may not have consented to being identified as a candidate for office. An amendment is proposed to except write-in candidates from the definition. The effect of the amendment will be to provide that write-in candidates will not be entitled to have a representative present when ballots are counted and will not be entitled to purchase registered voter lists. A write-in candidate who accepts contributions for his campaign or makes campaign expenditures would still be required to file campaign finance reports and would be a candidate for purposes of recount and contest procedures. See Appendix B, p. B 13.

§ 24.1-1(5). Definitions; special elections. Present law in § 24.1-165 prohibits the holding of a referendum on a primary election day. There is no parallel prohibition on holding a special election on a primary day to fill a vacancy in an office. Since only one party may be conducting a primary, it would be unfair to call a special election on the primary date when voters who do not wish to participate in the primary of that political party may be reluctant to go to the polls. Voter turnout could be adversely affected. See Appendix B, p. B 14.

§ 24.1-21. Investigations of election practices. This Section provides that the Attorney General shall appoint a committee to investigate election law violations when requested by a Commonwealth's attorney or local electoral board member. The amendment prohibits state and local officials, officers and employees from serving on the committee, but allows them to assist the committee. Since a number of these officials, officers and employees, particularly at the state level, answer informal inquiries concerning election law violations and give advice on administration of the election laws, it is more appropriate that they serve only in an advisory capacity to an investigatory committee. Otherwise, there may be some hesitancy on the part of individuals and election personnel to ask for advice from officials and employees who could serve in a formal investigatory capacity, and it is important that election law administrators maintain free and easy communication with all election administrators and citizens. See Appendix B, p. B 17.

**§ 24.1-79.3.** Forfeiture of office upon conviction of a felony. This section should be amended to provide that forfeiture of elective office shall occur upon conviction and sentencing for commission of a felony, rather than after "all rights of appeal have terminated." A voter loses his right to vote upon conviction and sentence, and an elected official must be qualified to vote for his office in order to hold office under Article II, § 5, of the Constitution. As now written, § 24.1-79.3 conflicts with the constitutional requirement that the elected official must be qualified to vote for the office in order to hold that office. See Appendix B, p. B 19.

**§ 2.1-121.1. (New)** A number of challenges to local redistricting plans have occurred since the 1981 redistricting cycle. The state has a legitimate concern that revisions in local election districts are made in compliance with state constitutional standards of equal population, compactness and contiguity and the state statutory mandate to follow defined physical features for boundary lines.

The ability of the state and localities to use Census Bureau data, population reports and maps, hinges on precinct and district lines that follow either legal boundaries (e.g. city boundaries) or roads, rivers, and other clearly identifiable physical features. The state has cooperated with the Census Bureau to assure that the data used in redistricting is complete and equally available to all persons interested in the redistricting process. One aspect of this state program is to lay the groundwork for redistricting plans that will result in identifiable districts and precincts and a more orderly election process for the voters.

The Subcommittee proposes a statutory authorization and directive for the Attorney General to represent the state's interest in situations when the potential remedy in a redistricting case could impinge on legitimate state policy. See Appendix B, p. B 20.



## DISCUSSION OF RECOMMENDATIONS I AND II

The Subcommittee submits the following as background information for the recommendations concerning campaign finance and local election officials.

### I. Campaign finance disclosure.

Virginia background. When the FEPA was adopted in 1970, political party committees were specifically made subject to Act's reporting requirements in § 24.1-255:

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

The Comment on this provision in the 1969 Report of the Election Laws Study Commission stated simply that: "This section also requires political party committees to file separately [from the candidate's committee]...." See Appendix C, Chart of Changes in the Fair Elections Practices Act, 1969-1988.

The 1970 law set out the form for reporting "expenditures and contributions." The form had an opening balance, receipts, disbursements and closing balance format. Schedules of receipts and disbursements were required that covered all contributions and disbursements. The terms were not defined.

In 1975, § 24.1-254.1 was added to require each "committee" (e.g. PACs) to file a statement of organization with the State Board of Elections. This registration requirement was triggered by an anticipated receipt of contributions or making of expenditures during the calendar year in an aggregate amount exceeding \$100. In the same bill, § 24.1-255 was amended to require committees to meet the periodic reporting requirements of the FEPA if they expended over \$500 in a statewide election or over \$100 in any other election or if they received or disbursed money, services of any thing of value over \$100 in any election which was not reported to a "candidate, his treasurer or a political party committee." These reporting requirements reached independent expenditures as well as covering contributions to a candidate committee. At this point, the FEPA still contained language that required political party committees to report on the same basis as a candidate's campaign committee.

Then the FEPA was amended in 1981 and 1983. In 1981, an exemption from the periodic reporting requirements was added for "any political party or organized political party group of elected officials." In 1983, § 24.1-255 was amended to delete the just-quoted language and an exemption from the periodic reporting requirements was added for "political party committees." In addition, § 24.1-254.1 was amended to explicitly exclude political party committees from the requirement that "committees" register with the State Board of Elections.

In 1988, the General Assembly added § 24.1-257.3 to require that political party committees report directly to the State Board any contribution received by a committee which has been earmarked for a specified candidate. The 1988 amendment left intact the 1983 exemptions for political party committees from the FEPA's periodic reporting requirements and committee registration requirements.

The situation in Virginia today concerning political party reporting requirements can be summarized as follows:

- political party committees are exempt from FEPA requirements for registering committees and filing periodic reports of campaign contributions and expenditures;
- party committees and caucus groups must file a report with the State Board of Elections of any contribution received which is earmarked for a specified candidate; and
- it is not clear whether the exemption from periodic reporting requirements for political party committees extends to "organized political party groups of elected officials."

Federal law background. Under the Federal Election Campaign Act, as amended, political party committees at the state and local level are required to report contributions and expenditures made to influence federal elections. Political party committees are a category within the umbrella term "political committee" that includes PACs and groups involved in federal campaign activities.

The Act sets limits on the contributions which state and local party committees may make to a federal candidate or his authorized committee (\$1000, or \$5000 if a multicandidate committee, per election) and to another committee, excepting the national party committee, (\$5000 per calendar year).

The political party committee may segregate federal election funds from non-federal funds. The separate federal fund account and activities become, in effect, a separate committee for reporting purposes. A separate federal account may receive only funds designated or expressly solicited for federal campaign purposes.

Other states. Forty-five states require state political party committees to file campaign finance reports.

Four of the 45 states (Maine, Massachusetts, Pennsylvania and Tennessee) require state political party committees, but not local party committees, to file campaign finance reports.

The remaining five states (Alabama, Arkansas, Louisiana, Nevada and Virginia) do not require political party committees to file reports. These states require filings by candidates; Alabama, Louisiana, Nevada and Virginia require filings by PACs; only Arkansas exempts both party committees and PACs. Of these five states, only Arkansas limits the amount of contributions that a party may make.

Rationale for requiring party committees to report --

- More complete disclosure. Virginia presently requires candidates and PACs to report campaign contributions and expenditures. The parties are major participants in the campaign process and their campaign finance activities should be disclosed to show more clearly from what sources and how all funds flow into the campaign finance stream. Individual candidate reports show only contributions received by the candidate from the party. These reports do not show expenditures made by the party committees independent of the candidates' campaign.
- Accountability. Contributors to the parties do not have access to information on the use of their funds in the campaign process without a report requirement.
- Verification. The publication by the parties of their campaign disbursements will aid in verifying the accuracy of candidate reports. The PACs currently file reports which state their campaign contributions to candidates and the political parties report only those contributions received by them that are earmarked for a specified candidate. Parallel reporting requirements for both types of committees would make the public record more complete and understandable.
- "Soft money." The absence of reporting by state and local political parties contributes to the difficulty of determining whether federal campaign regulations limiting the use of funds in federal campaigns are being observed. Funds raised at the national, state or local level for "non-federal" purposes can be spent on party-building activities at the state or local level. Donors to non-federal party accounts may contribute beyond the \$25,000 annual cap on individual contributions to federal campaigns and their excess contributions may benefit federal candidates through state or local level party building activities. The federal "soft money" problem involves both enforcement of federal limitations on individual and party campaign contributions and disclosure requirements at the federal level.

Recommendation. The Subcommittee's proposal is to require political party committees to report as any other committee under present Virginia law. The party committees and caucus groups will be required to report on the same basis as PACs.

II. Local election personnel.

Background. The present structure for administering elections has developed from a history of locally administered elections. The sheriff served as election commissioner in colonial times. Statutory law in the 18th century provided at first for the sheriff to conduct the public poll and then for local court appointed commissioners of election to oversee elections.

The local three-man electoral board system was initiated in 1884. Boards were elected by the General Assembly. The board appointed the registrar for its county or city.

The local electoral board gained constitutional status in § 31 of the 1902 Constitution. That Section is carried forward almost intact in the present Constitution. The major change in 1970 was to eliminate the constitutional requirement that the circuit courts appoint the boards.

The present Constitution. Section 8 of Article II requires:

1. that a three-member electoral board be appointed for each county and city;
2. that the board represent the two political parties that received highest and next highest number of votes at the preceding general election;
3. that members be appointed for three-year terms;
4. that the board appoint the general registrar for the county or city;
5. that the board appoint the officers of election and give representation to the two political parties that received the highest and next highest number of votes at the preceding general election.

The Section also prohibits certain government elected officials, employees, appointees, etc., from being appointed to local electoral boards or as registrars or officers of election. In 1986 this provision was modified to permit certain government employees to serve as assistant registrars and officers of election.

Present statutory law. The Code now provides:

1. Electoral Boards—appointment, compensation
  - appointed by circuit court judges (1946 proposal for appointment by State Board of Elections defeated)
  - political party representation for two most successful parties at last Governor's election and majority of board to represent winning party
  - staggered three-year terms to expire midnight before March 1
  - board elects one member chairman and one member secretary
  - compensation fixed in Appropriation Act, paid by locality and reimbursed by state
  - defense in civil actions involving performance of official duties by attorney appointed by circuit court; locality to pay fees if not Commonwealth's attorney

- professional liability coverage provided under state self-insurance plan (§ 2.1-526.8)
  - no provision for employee benefits.
2. General registrar--appointment, compensation
- appointed by newly constituted local electoral board March 1983 and each four years thereafter
  - four-year term commencing April 1
  - compensation fixed in Appropriation Act, paid by locality and reimbursed by state; local supplement up to 10% permitted
  - defense in civil actions involving performance of official duties by attorney appointed by circuit court; locality to pay fees if not Commonwealth's attorney
  - professional liability coverage provided under state self-insurance plan (§ 2.1-526.8)
  - provision for employee benefits determined locally.
3. Assistant registrars--appointment, compensation
- number and terms set by electoral board; term not to extend beyond general registrar's
  - appointed by general registrar
  - compensation for paid assistants fixed and paid by locality
4. Officers of elections--appointment, compensation
- appointed by electoral board to represent two major political parties on as nearly an equal basis as possible
  - compensation fixed and paid by locality; must be paid at least \$30 for election day service.

Recent federal court cases. On May 16, the Supreme Court denied certiorari in Virginia v. Kilgore and left standing the Fourth Circuit ruling in McConnell and Kilgore v. Adams, et al., 829 F.2d 1319 (1987). The Kilgore case law establishes that general and assistant registrars may not be discharged or refused reappointment solely on the basis of party affiliation (Branti v. Finkel, 445 U.S. 507[1980]). The Circuit Court also held that the electoral board members and general registrar were acting as state employees for purposes of insurance coverage by the state's insurer. The Court denied damages but affirmed the lower court order to rehire the plaintiffs.

Issues before the Joint Subcommittee. The Subcommittee reviewed a number of issues:

1. Appointment of general registrar

Subsequent to Kilgore, cases are still being brought which raise the issue of failure to reappoint a registrar for political reasons. Potential solutions involve amendments

- to redefine the role of the registrar
- to alter the term of the registrar
- to spell out procedures for evaluating the performance of the registrar.

2. State or local employee status

The Kilgore decision held that the defendant electoral board and general registrar were acting as state, rather than local, employees when they failed to rehire a general registrar and assistant registrar, respectively. Monetary damages were not awarded plaintiffs because the Court found that the Commonwealth had not waived its eleventh amendment immunity. It also held that the individual defendants were entitled to qualified immunity because it was uncertain under the law in effect in 1983, when the appointments in question had been made, whether the Branti prohibitions would cover such "small offices."

The Kilgore case points up the fact the electoral boards, registrars and election officers are hybrid state and local personnel.

Issues meriting further study are broader than the Kilgore case and involve:

- supervision of the electoral process
- responsibility for hiring/appointment and dismissal for inadequate performance
- compensation and benefits
- insurance coverage and defense against suit
- costs and benefits of changes.

Pending federal legislation to establish a uniform poll closing time by extending the time to vote on the east coast also requires study of the work of local officers of election, the length of time they should work and compensation requirements.

Other states. Oversight and administration of state and local elections and registration in other states varies to the extent that each state is unique.

The Subcommittee reviewed the range of local administrative structures used in other states to oversee elections and registration—i.e. elected local commissions of elections or registrars, elected registrars, city clerk, county clerk, tax assessor or auditor, judge or court clerk.

Virginia's central registration system and uniform structure for both counties and cities, make the Commonwealth's election administration structure one of the more centralized and uniform in the country.

The variety of approaches among the states leads to the conclusion that a focus on Virginia's present law will be more useful than comparison to other jurisdictions in a continuation of the present study.

Directors of election. The proposal to consider establishing a system of directors of election who would perform all ministerial functions at the local level deserves study. The most important issue will be how much cost the state should absorb, particularly for the registrar's or director's staff and office.

Respectfully submitted,

The Honorable Hunter B. Andrews  
Chairman

The Honorable William T. Wilson  
Vice Chairman

The Honorable Robert B. Ball, Sr.

The Honorable Joseph V. Gartlan, Jr. \*

The Honorable C. Jefferson Stafford \*\*

\* I concur in the Report with one exception. I think that the General Assembly overreacted to absentee ballot problems in 1988. Voters who will be absent on election day for business or vacation reasons should be able to apply for absentee ballots without an in-person appearance at the registrar's office and without giving information about their business or vacation plans. We should simply repeal the 1988 change.

\*\* I concur in the Report with one qualification. I think it is proper to require political parties to report contributions and expenditures received and disbursed, but I reserve the right to suggest reasonable limits to the reporting requirements.

APPENDIX A

1988 STUDY RESOLUTION

SENATE JOINT RESOLUTION NO. 58

*Establishing a joint subcommittee to study the election laws and certain other related matters.*

Agreed to by the Senate, March 11, 1988  
Agreed to by the House of Delegates, March 9, 1988

WHEREAS, Virginia's election laws are administered primarily at the local level in each county and city by the electoral board, the general registrar, the staff of the registrar and the officers of election; and

WHEREAS, the status of local electoral board members and the general registrar has been recently a matter for debate both before the courts and in the General Assembly; and

WHEREAS, the Fourth Circuit Court of Appeals held in *McConnell and Kilgore v. Adams et al.* (No. 86-1604) (1987), that both electoral board members and the general registrar were state employees; and

WHEREAS, the Court further held that the failure to rehire a general registrar solely on grounds of political affiliation violated the registrar's first amendment rights but that the electoral board members were not liable for damages since they were protected by the Commonwealth's sovereign immunity; and

WHEREAS, the General Assembly in 1986 amended § 2.1-526.8 to provide coverage for local electoral board members and general registrars under the state's insurance plan for public liability and amended § 2.1-32 to state that these election officials would be deemed local personnel except to the extent they are elsewhere explicitly treated as state employees; and

WHEREAS, the present status of these officials has been called into doubt so that a careful study of their role in administering the election laws is appropriate and necessary; and

WHEREAS, the study should consider the proper qualifications for these offices, methods of selection, supervision and dismissal, and appropriate means to compensate, ensure and provide office support and representation for these personnel; and

WHEREAS, the amount of money spent in statewide and state legislative elections is of increasing concern nationally, and the magnitude of the sums of money which must be amassed to finance such elections gives an advantage to wealthy candidates and forces heavy reliance upon large contributions from interest groups, political action committees, and wealthy individuals; and

WHEREAS, the most recent elections provide dramatic proof of the increased costs of campaigning: first, total spending of \$2.89 million for the House of Delegates contests in 1987 represented a 56 percent increase over 1985 costs; and second, total spending of \$5.3 million for state Senate races in 1987 reflected an increase of more than 180 percent over 1983 costs; and

WHEREAS, reliance upon large contributions may run the risk of undue influence by such groups, committees, and individuals in the legislative and other governmental processes, or at the very least may create the perception of such influence in the minds of the public; and

WHEREAS, the necessity of raising such sums requires an inordinate amount of time and effort to be spent on fundraising, may discourage many potential candidates from seeking office, and is not consistent with the concept of the citizen legislator, thereby undermining public confidence in the political process; and

WHEREAS, the Commonwealth's present Fair Elections Practices Act expresses the conclusion that the disclosure of campaign contributions and expenditures is the most practical means to assure fairness in the election system, but there has not been a thorough study of the feasibility of limiting campaign contributions and expenditures or of public financing of election campaigns in the Commonwealth in recent time; and

WHEREAS, many states have already responded to this problem by adopting limitations on contributions to political campaigns: over two-thirds limit or prohibit corporate contributions, over one-half limit or prohibit labor union contributions, over one-third limit political action committee contributions, and almost one-half limit the size of contributions by individuals; and



WHEREAS, although several states have adopted limits on campaign spending in conjunction with some form of public financing of elections, the Virginia Fair Elections Practices Act does not address fair campaign practice issues and the election laws contain only minimum identification requirements concerning campaign materials and statements; and

WHEREAS, it will be necessary to consider questions involving constitutional limitations on legislation which can be enacted to control the amounts expended on election campaigns and the effectiveness and costs of public financing of campaigns; and

WHEREAS, the 1987 November general election generated several allegations of fraudulent activities in the handling of absentee ballots and the conduct of the election; and

WHEREAS, because it is essential that public confidence in the integrity of the elections system be maintained, there should be an examination of the problems uncovered during the 1987 election to determine the facts involved and the best means to rectify the conditions that allowed these problems to occur; and

WHEREAS, a comprehensive examination of these issues can lead to the improved administration of the election laws; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That there is hereby established a joint subcommittee to study the election laws and certain other related

matters. The joint subcommittee shall include in its deliberations (i) the status of the electoral boards, general registrars and their staffs, and the appropriate roles of the state and localities in the overseeing, compensation and support of these officers and employees; (ii) campaign costs and possible limitations or controls on campaign costs, contributions and expenditures and possible public financing of elections in Virginia; (iii) absentee ballot procedures and statutes in light of allegations of improper activities during the 1987 election; (iv) the Fair Elections Practices Act; (v) the desirability of establishing a fair election campaign commission; and (vi) issues the subcommittee deems relevant to these matters.

The joint subcommittee shall be composed of two members of the Senate Committee on Privileges and Elections appointed by the Senate Committee on Privileges and Elections and three members of the House Committee on Privileges and Elections appointed by the Speaker of the House. The joint subcommittee shall complete its study and report its recommendations prior to the 1989 regular Session of the General Assembly.

The indirect costs of this study are estimated to be \$10,650; the direct costs of this study shall not exceed \$3,600.

## APPENDIX B

### RECOMMENDED LEGISLATION

Campaign finance -- SB 731	B 1
Continuing study -- SJR 186	B 6
Absentee voting -- HB 1674	B 8
Definitions -- HB 1702	
Candidate	B 13
Special election day	B 14
Investigations -- SB 734	B 17
Forfeiture of office -- HB 1679	B 19
Representation; redistricting -- SB 735	B 20

1 D 1/21/89 Spain C 01/22/89 wms

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

3 A BILL to amend and reenact §§ 24.1-254.1, 24.1-255 and 24.1-257.3 of  
4 the Code of Virginia, relating to statements of organization and  
5 reports of campaign finances by committees, including political  
6 party committees, under the Fair Elections Practices Act.

7

8 Be it enacted by the General Assembly of Virginia:

9 1. That §§ 24.1-254.1, 24.1-255 and 24.1-257.3 of the Code of  
10 Virginia are amended and reenacted as follows:

11 § 24.1-254.1. Statement of organization.--(a) The term  
12 "committee" as used herein shall include each person, association,  
13 organization, group of individuals, political party committee, which  
14 shall include any state, district, county or city party committee or  
15 organized political party group of elected officials, political action  
16 committee, or other committee which anticipates receiving  
17 contributions or making expenditures during the calendar year in an  
18 aggregate amount exceeding \$100, but shall not include a candidate's  
19 campaign committee or a political party committee. Each committee  
20 shall file with the State Board of Elections a statement of  
21 organization, within 10 days after its organization or, if later, 10  
22 days after the date on which it has information which causes the  
23 committee to anticipate it will receive contributions or make  
24 expenditures in excess of \$100. ~~Each such committee in existence on~~  
25 ~~July 1, 1975, shall file a statement of organization with the~~  
~~secretary of the Board at such time as he prescribes.~~

1 (b) The statement of organization shall include:

2 (1) The name and address of the committee;

3 (2) The names, addresses, and relationships of affiliated or  
4 connected organizations;

5 (3) The area, scope, or jurisdiction of the committee;

6 (4) The name, address, and position of the custodian of books and  
7 accounts;

8 (5) The name, address, and position of other principal officers,  
9 including officers and members of the finance committee, if any;

10 (6) The name, address, office sought, and party affiliation of  
11 (i) each candidate whom the committee is supporting or opposing, and  
12 (ii) any other individual, if any, whom the committee is supporting or  
13 opposing for nomination for election, or election, to any public  
14 office whatever; or, if the committee is supporting the entire ticket  
15 of any party, the name of the party;

16 (7) A statement whether the committee is a continuing one;

17 (8) The disposition of residual funds which will be made in the  
18 event of dissolution;

19 (9) A listing of all banks, safety-deposit boxes, or other  
20 repositories used; and

21 (10) [Repealed.]

22 (11) Such other information as shall be required by the State  
23 Board of Elections.

24 (c) Any change in information previously submitted in a statement  
25 of organization shall be reported to the secretary of the State Board  
26 of Elections within a ten-day period following the change.

27 (d) Any committee which, after having filed 1 or more statements  
28 of organization, disbands or determines it will no longer receive

1 contributions or make expenditures during the calendar year in an  
 2 aggregate amount exceeding \$100 shall so notify the secretary of the  
 3 State Board of Elections.

4 § 24.1-255. Money, etc., paid or reported to treasurer; duties  
 5 of committees; report of persons receiving or disbursing moneys,  
 6 etc.-- A. All moneys, services, or other things of value over \$100,  
 7 collected, received or disbursed by or on behalf of any candidate or  
 8 in relation to his candidacy from every source, ~~except independent~~  
 9 expenditures, shall be paid over or delivered to the candidate's  
 10 treasurer or shall be reported to such candidate's treasurer in such  
 11 detail and form as to allow the treasurer to comply fully with this  
 12 chapter. An independent expenditure shall be reported pursuant to §  
 13 24.1-257.1 in lieu of being reported to the candidate's treasurer  
 14 hereunder. An independent expenditure means an expenditure made by  
 15 anyone, including any committee as defined in § 24.1-254.1, which is  
 16 not made to, controlled by, coordinated with or made upon consultation  
 17 with a candidate, his campaign committee, or an agent of the candidate  
 18 or his campaign committee.

19 B. It shall be unlawful for any candidate, or anyone, including  
 20 a-political-party-any committee as defined in § 24.1-254.1,  
 21 collecting, receiving, disbursing or expending money, services, or  
 22 other things of value over \$100 in relation to his candidacy, to fail  
 23 to report every such collection, receipt, disbursement or expenditure  
 24 as required herein and in this chapter.

25 ~~Except as provided in the preceding paragraph and in §~~  
 26 ~~24.1-257.3, any political party committee, which shall include any~~  
 27 ~~state, district, county or city party committee or organized political~~  
 28 ~~party group of elected officials, shall be exempt from the~~

~~1 requirements of this chapter, but contributions made by a political~~  
~~2 party committee to any candidate, his campaign committee, or committee~~  
~~3 as defined in § 24.1-254.1, shall be reported in accordance with the~~  
~~4 provisions of this chapter by such candidate, his campaign committee~~  
~~5 or committee as defined in § 24.1-254.1.--~~

6       C. Any committee, as defined in § 24.1-254.1, (i) which expends  
7 any funds in excess of \$500 for a statewide election or \$100 for any  
8 one other election for the purpose of influencing the outcome of any  
9 election, or (ii) which publishes or broadcasts to the public any  
10 material referring to a candidate (by name, description, or other  
11 reference) advocating the election or defeat of such candidate,  
12 setting forth the candidate's position on any public issue, his voting  
13 record, or other official acts or otherwise designed to influence  
14 individuals to cast their votes for or against such candidate or to  
15 withhold their votes from such candidate, or for the purpose of  
16 promoting or opposing a referendum, proposition, constitutional  
17 amendment, or other question submitted to the voters, shall maintain  
18 records and report all such receipts and disbursements of moneys,  
19 services, or other things of value over \$100 pursuant to this chapter.

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

23       Services shall not be deemed to include personal services  
24 voluntarily rendered for which no compensation is asked or given.

25       § 24.1-257.3. Report of certain contributions received by  
26 political party committees.-- Every political party committee, which  
27 shall include any state, district, county or city party committee or  
28 organized political party group of elected officials, shall be

1 required to file a report of contributions including money, services  
2 or other things of value over \$100, received by it and designated in  
3 writing or orally by the contributor for the election of a specified  
4 candidate. The form of the report (i) shall be prescribed by the  
5 State Board of Elections and may be incorporated in the report of  
6 contributions and expenditures prescribed in § 24.1-258, (ii) shall  
7 provide for the reporting of the receipt and disbursement of  
8 designated contributions, including information to identify the  
9 contributor, as provided in § 24.1-258, and (iii) shall include the  
10 name of the candidate for whose election the contributor has  
11 designated the contribution. Such reports shall be filed with the  
12 State Board of Elections in accordance with § 24.1-257.1.

13

#

1 D 01/09/89 Spain C 01/21/89 wms

2 SENATE JOINT RESOLUTION NO.....

3 Continuing the joint subcommittee studying election laws to complete  
4 its study of the status of local electoral boards and registrars  
5 and the fiscal impact of proposed changes in the local  
6 administration of election laws.

7  
8 WHEREAS, the Joint Subcommittee Studying Elections Laws pursuant  
9 to 1988 Senate Joint Resolution No. 58 considered changes in the  
10 present system for administering registration and election laws  
11 through local electoral boards and registrars' offices; and

12 WHEREAS, proposals to restructure the present system appear to  
13 have merit and take into account that there have been increases and  
14 changes in the work of local election officials and that they perform  
15 largely state-assigned functions; and

16 WHEREAS, there may be federally mandated changes in poll closing  
17 times that will require additional officers of election; and

18 WHEREAS, the joint subcommittee has not evaluated the cost impact  
19 of these proposals and potential changes; now, therefore, be it

20 RESOLVED by the Senate, the House of Delegates concurring, That  
21 the joint subcommittee created pursuant to Senate Joint Resolution No.  
22 58 be continued for the purpose of completing its evaluation of  
23 proposals to change the present system for the administration of  
24 registration and election laws at the local level. The joint  
25 subcommittee shall complete its work in time to submit its findings  
26 and recommendations to the Governor and the 1990 Session of the



1 General Assembly as provided in the procedures of the Division of  
2 Legislative Automated Systems for processing legislative documents.

3 The indirect costs of this study are estimated to be \$7,255; the  
4 direct costs of this study shall not exceed \$3,200.

5 #

1 D 1/9/89 Spain C 1/19/89 DF

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

3 A BILL to amend and reenact §§ 24.1-227 and 24.1-228.1 of the Code of  
4 Virginia, relating to persons who may vote by absentee ballot and  
5 absentee ballot applications.

6

7 Be it enacted by the General Assembly of Virginia:

8 1. That §§ 24.1-227 and 24.1-228.1 of the Code of Virginia are  
9 amended and reenacted as follows:

10 § 24.1-227. When absent voter may vote.-- A. The following  
11 persons may vote by absentee ballot in accordance with the provisions  
12 of this chapter in any election in which they are qualified to vote:

13 (1) Any duly registered person who will, in the regular and  
14 orderly course of his business, profession, or occupation or while on  
15 vacation, be absent from the county or city in which he is entitled to  
16 vote;

17 (2) Any duly registered person who is on active service as a  
18 member of the armed forces of the United States, or who is a member of  
19 the Merchant Marine of the United States, or who is regularly employed  
20 in business, profession or occupation outside the continental limits  
21 of the United States, or the duly registered spouse or dependent  
22 residing with such person, who will be absent on the day of the  
23 election from the county or city in which he is entitled to vote;

24 (3) Any duly registered person, who is a student, or the spouse  
25 of a student attending any school or institution of learning, and who  
26 will be absent on the day of election from the county or city in which

1 he is entitled to vote;

2 (4) Any duly registered person who is unable to go in person to  
3 the polls on the day of election because of a physical disability or  
4 physical illness;

5 (5) Any duly registered person who is confined while awaiting  
6 trial or due to conviction of a misdemeanor, provided that the date of  
7 such trial or for completion of his term is scheduled on or after the  
8 third day before such election, and provided further that any such  
9 person who is a resident of the county or city where so confined  
10 shall, on his request, be taken to vote on election day if his trial  
11 date is postponed and he did not have an opportunity to vote absentee;  
12 or

13 (6) Any duly registered person who is a member of an electoral  
14 board, registrar, officer of election or custodian of voting machines.

15 ~~B. Persons applying for an absentee ballot under subdivision A~~  
16 ~~(1) above shall apply in person only pursuant to subdivision 1 of §~~  
17 ~~24-1-228-1.~~

18 § 24.1-228.1. Application for absentee ballots.--It shall be the  
19 duty of the electoral board of each county or city to furnish the  
20 general registrar with a sufficient number of applications for  
21 official ballots on forms prescribed by the State Board of Elections;  
22 and it shall be the duty of such registrars to furnish application  
23 forms, in person or by mail, to any person requesting the same.

24 All applications for absentee ballots shall be made to the  
25 appropriate registrar (i) not less than three days prior to the  
26 election in which the applicant offers to vote if completed in person  
27 in the office of the registrar, or (ii) not less than five days prior  
28 to the election in which the applicant offers to vote if applying by

1 mail or other means. A separate application shall be completed for  
2 each election in which the applicant offers to vote. No application  
3 shall be made more than ten months prior to the election for which the  
4 ballot is requested. Any application received before the ballots are  
5 printed for the election in which the applicant offers to vote shall  
6 be held and processed as soon as the printed ballots for the election  
7 are available.

8 All applications for absentee ballots shall be signed in the  
9 presence of one subscribing witness by the applicant who shall  
10 subscribe the same and vouch under the penalty of perjury, that to the  
11 best of his knowledge and belief the facts contained in the  
12 application are true and correct and that he has not and will not vote  
13 in the election at any other place in Virginia or in any other state.

14 Applications for absentee ballots shall be as follows:

15 1. An application completed in person shall be completed only in  
16 the office of the registrar or secretary (such registrar's office to  
17 be open a minimum of eight hours between the hours of 8:00 a.m. and  
18 5:00 p.m. on the first and second Saturdays immediately preceding all  
19 general or primary elections and on the Saturday immediately preceding  
20 any special election) and shall be made on a form furnished by the  
21 registrar and signed by the applicant in the presence of either the  
22 registrar or the secretary of the electoral board.

23 2. Any other application may be made by mail or other means and  
24 shall be on a form furnished by the registrar or, if made under §  
25 24.1-227 (2) may be on a Federal Post Card Application prescribed  
26 pursuant to § 1973 ff (b) (2) of Title 42 of the United States Code,  
27 either of which applications shall be signed by the applicant in the  
28 presence of one subscribing witness.

1           3. Any application made under § 24.1-227 shall contain the  
2 following appropriate information:

3           a. The reason why the applicant will be absent or cannot vote at  
4 his polling place on the day of the election;

5           b. A statement that he is duly registered in the county or city  
6 in which he offers to vote and his residence address in such county or  
7 city; provided, however, that any person who makes application under §  
8 24.1-227 (2) who is not a registered voter, shall be allowed to  
9 register, pursuant to § 24.1-48, by absentee application. In such  
10 event the registrar shall supply or correct technical information  
11 contained in either application, such as precinct names and number, to  
12 the end that such persons have the fullest opportunity possible to  
13 exercise their privilege of voting;

14           c. The complete address to which the ballot is to be sent  
15 directly to the applicant, provided that the application is not made  
16 in person at a time when the printed ballots for the election are  
17 available. The address given shall be either the address of the  
18 applicant on file in the registration records or the address at which  
19 he will be located while absent from his county or city. No ballot  
20 shall be sent to, or in care of, any other person; and

21           d. In the case of an applicant or the spouse or dependent of an  
22 applicant who is on active service as a member of the armed forces of  
23 the United States or a member of the Merchant Marine of the United  
24 States, the branch of service to which he or the spouse belongs, and  
25 his or the spouse's rank, grade, or rate, and service identification  
26 number; or

27           e. In the case of a person, or the spouse or dependent  
28 accompanying such person, who is regularly employed outside the

1 continental limits of the United States, the name and address of his  
2 employer; or

3 f. In the case of a student or the spouse of a student attending  
4 a school or institution of learning, the name and address of such  
5 school or institution of learning; or

6 g. In the case of a person who is unable to go in person to the  
7 polls on the day of the election because of a physical disability or  
8 physical illness, the nature of the illness or disability; or

9 h. In the case of a person who is confined awaiting trial or due  
10 to conviction of a misdemeanor, the name and address of the  
11 institution of confinement - ; or

12 i. In the case of a person who is unable to go in person to the  
13 polls on the day of the election because of business, professional,  
14 occupational, or vacation reasons, the location or address where he  
15 will be on the day of the election.

16 #

1 D 1/10/89 Spain C 1/20/89 wms

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

3 A BILL to amend and reenact § 24.1-1 of the Code of Virginia, relating  
4 to definitions in the election laws.

5

6 Be it enacted by the General Assembly of Virginia:

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

9 § 24.1-1. Definitions.--Definitions as used in this title,  
10 unless a different meaning is required by the context:

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

16 (2) "Candidate" shall mean any person who seeks or campaigns for  
17 any office of the Commonwealth or of any of its governmental units in  
18 a primary, general, or special election by the people and is qualified  
19 to have his name placed on the ballot. "Candidate" shall include a  
20 person who seeks the nomination of a political party or who, by reason  
21 of receiving the nomination of a political party for election to any  
22 such office, is referred to as a "nominee . ." ; For the purposes of  
23 Chapters 8 and 9 of this title, "candidate" shall also include a  
24 write-in candidate.

25 (3) The word "Commonwealth" shall mean the Commonwealth of

1 Virginia;

2 (4) (a) "Election district" may be a county, city, town,  
3 magisterial district of a county, ward of a city, or precinct or  
4 combination of any of these, as may be designated by proper authority  
5 or by law, and such other districts as provided for in § 15.1-571.1 or  
6 § 24.1-36;

7 (b) "Central absentee voter election district" means any district  
8 established pursuant to § 24.1-233.1 which may be a county, city,  
9 town, election district of a county or combination thereof, election  
10 district of a city or combination thereof, or any combination of  
11 precincts;

12 (5) Elections:

13 (a) "General election" means any election held in the  
14 Commonwealth on the Tuesday after the first Monday in November or on  
15 the first Tuesday in May for the purpose of filling offices regularly  
16 scheduled by law to be filled at those times;

17 (b) "Primary" or "primary election" means an election held for  
18 the purpose of nominating candidates as nominees of political parties  
19 for election to offices, and for the purpose of electing persons as  
20 members of the committees of political parties;

21 (c) "Special election" means any election which is held pursuant  
22 to law to fill a vacancy in office or to submit to the qualified  
23 voters for adoption or rejection a question or proposition, provided  
24 that a special election shall be held on a Tuesday and may also be  
25 held on the day of a general election , but shall not be held on the  
26 same day as a primary election . An election to fill a vacancy in any  
27 county, city or town office, including any office named in Article  
28 VII, § 4, of the Constitution of Virginia, regularly elected in a



1 November general election shall be held on a regular November general  
2 election day and an election to fill a vacancy in any city or town  
3 office regularly elected in a May general election shall be held on a  
4 regular May general election day;

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

9 (7) "Party" or "political party" shall mean an organization or  
10 affiliation of citizens of the Commonwealth which, at the last  
11 preceding statewide general election, polled at least ten percent of  
12 the total vote cast for the office filled in that election by the  
13 voters of the Commonwealth at large. Such organization or affiliation  
14 of citizens shall also have a state central committee and a duly  
15 elected chairman which have continually been in existence and holding  
16 office for the six months preceding the filing of a nominee;

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

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

23 (10) The words "qualified voter" shall mean a person who has  
24 qualified to vote pursuant to the Constitution and statutes of the  
25 Commonwealth;

26 (11) "Residence," for all purposes of qualification to vote,  
27 requires both domicile and a place of abode. In determining domicile,  
28 consideration may be given to the applicant's expressed intent,

1 conduct, and all attendant circumstances including, but not limited  
2 to, financial independence, business pursuits, employment, income  
3 sources, residence for income tax purposes, marital status, residence  
4 of parents, spouse and children, if any, leasehold, sites of personal  
5 and real property owned by the applicant, motor vehicle and other  
6 personal property registration, and such other factors as may  
7 reasonably be deemed necessary to determine the qualification of an  
8 applicant to vote in an election district;

9 (12) "Circuit court" shall mean the circuit court of record  
10 wherein deeds of conveyance of real property are admitted to record,  
11 except in the City of Richmond, the Circuit Court of the City of  
12 Richmond, Division I;

13 (13) "Qualified voter in a town" shall mean a person who has  
14 domicile and a place of abode within the boundaries of the  
15 incorporated town in which he offers to vote, is duly registered in  
16 the county of his residence, and who has the other qualifications  
17 required by the Constitution and Code of Virginia.

18

#

1 D 01/10/89 Spain C 01/11/89 wms

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

3 A BILL to amend and reenact § 24.1-21 of the Code of Virginia,  
4 relating to investigations of election law violations.

5

6 Be it enacted by the General Assembly of Virginia:

7 1. That § 24.1-21 of the Code of Virginia is amended and reenacted as  
8 follows:

9 § 24.1-21. Requesting assistance for Commonwealth's attorney;  
10 investigative committees.--The Board, in any instance in which it is  
11 of opinion that the public interest will be served thereby, may  
12 request the Attorney General, or other attorney designated by the  
13 Governor for the purpose, to assist the attorney for the Commonwealth  
14 of any jurisdiction in which election laws have been violated, and the  
15 Attorney General, or the other attorney designated by the Governor,  
16 shall have full authority to do all things necessary or appropriate to  
17 enforce the election laws or prosecute violations thereof.

18 The Commonwealth's attorney or a member of the electoral board of  
19 such county or city may make a request, in writing, that the Attorney  
20 General appoint a committee to make an immediate investigation of the  
21 election practices in that city or county, accompanied by a statement  
22 under oath that substantial violations of this title have occurred  
23 which may alter or have altered the outcome of an election. Upon  
24 receipt of such request and statement, the Attorney General shall  
25 forthwith appoint a committee of two or more persons qualified to make

1 such investigation. Members, officers and employees of the State  
2 Board of Elections, local electoral boards and registrars' offices  
3 shall not serve on the committee but may provide assistance to the  
4 committee.

5       The Attorney General shall direct such committee to observe,  
6 investigate or supervise such election if supervision appears  
7 necessary. Such committee shall make a preliminary report to the  
8 Attorney General within five days of its appointment. If such report  
9 shows that violations of this title have occurred, the Attorney  
10 General may, notwithstanding any other provision of law, authorize  
11 prosecution of those responsible for such violations.

12

#

1 D 1/10/89 Spain C 1/22/89 smw

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

3 A BILL to amend and reenact § 24.1-79.3 of the Code of Virginia,  
4 relating to forfeiture of office after conviction of felony.

5

6 Be it enacted by the General Assembly of Virginia:

7 1. That § 24.1-79.3 of the Code of Virginia is amended and reenacted  
8 as follows:

9 § 24.1-79.3. Forfeiture of office by person sentenced for  
10 commission of felony.-- A. Any person holding an office elected by  
11 the people who may be convicted for commission of a felony by the  
12 courts of this Commonwealth shall by such conviction forfeit his  
13 office. If the conviction of the officeholder is reversed or  
14 overturned or he is pardoned and his civil rights are restored, he  
15 shall be reinstated by operation of law to the elective office for the  
16 remainder, if any, of the elective term of office forfeited, and all  
17 pay and benefits shall be restored.

18 B. Any person holding any appointive public office of honor,  
19 profit or trust in this State Commonwealth who may be convicted for  
20 commission of a felony by the courts of this State Commonwealth and  
21 all rights of appeal have terminated, shall by such final conviction  
22 forfeit his office or post and be thereafter incapable of acting  
23 therein under his previous election or appointment; and though a  
24 pardon be afterwards granted him, such pardon shall not void the  
25 forfeiture.

1 D 1/21/89 Spain C 1/22/89 jds

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

3 A BILL to amend the Code of Virginia by adding a section numbered  
4 2.1-121.1, relating to services of the Attorney General's office  
5 in certain redistricting proceedings.

6

7 Be it enacted by the General Assembly of Virginia:

8 1. That the Code of Virginia is amended by adding a section numbered  
9 2.1-121.1 as follows:

10 § 2.1-121.1. Legal service in certain redistricting  
11 proceedings.--The Attorney General shall represent personally or  
12 through one of his assistants the interests of the Commonwealth when  
13 in his judgment the remedy in any judicial proceeding may result in  
14 the redistricting of county, city or town election districts in a  
15 manner that conflicts with the requirements of Section 5 of Article  
16 VII of the Constitution of Virginia or Chapter 4.2 of Title 24.1 of  
17 the Code of Virginia.

18 #

Changes in Fair Elections Practices Act.  
1969-1988

1. Application of Act, § 24.1-251.

- |                   |   |
|-------------------|---|
| Original proposal | <ul style="list-style-type: none"><li>• Apply to all elections in Virginia except Congressional.</li></ul>  |
| 1970              | <ul style="list-style-type: none"><li>• Require copies of federal campaign reports be filed by Congressional candidates.</li></ul>                  |
| 1972              | <ul style="list-style-type: none"><li>• Exclude soil and water conservation district elections.</li></ul>   |
| 1973              | <ul style="list-style-type: none"><li>• Exclude town elections.</li></ul>   |
| 1980              | <ul style="list-style-type: none"><li>• Prohibit local regulation and provide state law exclusive.</li></ul>  |
| 1982              | <ul style="list-style-type: none"><li>• Include elections in towns of 25,000 or more; include nominating conventions, mass meetings, etc.</li></ul> |

2. Summary of laws; forms. § 24.1-252.

- |                   |   |
|-------------------|---|
| Original proposal | <ul style="list-style-type: none"><li>• State Board of Elections distributes copies of law and specimen forms.</li></ul>                                |
| 1975              | <ul style="list-style-type: none"><li>• Require State Board to prescribe forms.</li></ul>   |
| 1983              | <ul style="list-style-type: none"><li>• Add reference to § 24.1-253 filings so forms will be circulated once campaign treasurer is appointed.</li></ul> |

3. Appointment of campaign treasurer; campaign committee. § 24.1-253.

- |                   |   |
|-------------------|---|
| Original proposal | <ul style="list-style-type: none"><li>• Require appointment of one campaign treasurer and notice of appointment to State Board; provide for assistant local treasurers; candidate may be his own treasurer.</li></ul> |
|-------------------|---|

1971 Executive Session

- (Change repealed).

1972

- Provide candidate deemed treasurer if none is appointed.

1975

- Delete local treasurer provisions; provide for designation of one campaign committee.

1978

- Require statewide office candidate to file with State Board only.

1983

- Cover campaigns for nomination by method other than primary.

1984

- Require candidates for multi-jurisdictional office to file locally and with State Board.

#### 4. Campaign depositories. § 24.1-254.

Original proposal

- Require a designated Virginia bank account and that all campaign funds be expended through checks on that account.

1975

- Allow \$25 petty cash fund.

1983

- Include reference to campaign committee.

#### 5. Statement of organization. § 24.1-254.1.

1975 (New)

- Require "committees" to file statement of organization with State Board; apply to all committees (pacs, party committees), other than candidate's campaign committee, that have \$100 in contributions or expenditures (not defined) in calendar year.

1983

- Exclude political party committees.



6. Political action committees. § 24.1-254.2

1981 (New)

- Provide pacs may be established; prohibit coercive activities; require disclosure of political purposes of pac fund solicitations.

7. Campaign funds. § 24.1-255.

Original proposal

- Require all campaign funds be paid or reported to candidate's treasurer; provide for reporting by political party committee; provide for reporting by any other person who receives or disburses campaign funds not otherwise reported through candidate or party.

1975

- Add \$100 trigger amount for candidate and party committee reports; add \$100 trigger amount (\$500 for state wide office) for other persons and committees.

1981

- Exempt "political party or organized political party group of elected officials" from reporting requirements except requirement to report to the candidate's treasurer.

1983

- Revise section generally and delete reference to "organized political party group of elected officials."

1988

- Add reference to new § 24.1-257.3.

-8. Books and records of candidate or treasurer. § 24.1-256.

Original proposal

- Require the keeping of accurate records of campaign contributions and expenditures.

1975

- Add \$100 trigger amount and reference to funds "loaned or borrowed."

9. Campaign fund reports; schedule. §§ 24.1-257, 24.1-257.1 and 24.1-257.2.

Original proposal

- Require each treasurer to file report of contributions and expenditures with candidate's local board and State Board; set schedule of one seven-day pre-election report, one 30-day post-election report, and a 60-day, six-month and one-year post-election report if unpaid bills still remain.

1972

- Delete references to "noon" deadlines.

1973

- Require pre-election report to include transactions up to 14 days before election.

1975

- Add 30-day pre-election report for statewide campaigns; add report of last-minute large contributions; require annual reports so long as outstanding debts continue.

1976

- Specify primary to be treated as separate election; provide statewide election reports to be filed only with State Board; revise schedule.

1978

- Provide Class 4 misdemeanor penalty for willful failure to file or late filing; revise schedule.

1982

- Cover all nominating methods; provide for final report after account closed.

1983

- Cover committee filings; require reports until surplus funds are accounted for and expended or transferred.

1984

- § 24.1-257.1 added to set out a separate schedule for filings by committees.

1986

- § 24.1-257 repealed.  
§ 24.1-257.2 added to spell out a schedule for candidate filings using months and dates.

1988

- Restore 30-day (October 1) pre-election report for November elections for all non-statewide offices.

-C 4-

10. Reports of designated contributions. § 24.1-257.3.

1988 (New)

- Require party committees to file report of contributions designated for a specified candidate.

11. Form of reports § 24.1-258.

Original proposal

- Set out the report form to disclose contribution and expenditure information; contributions of \$50 or less may be reported as lump sum; name and address of contributor required for \$51-plus contributions.

1971 Executive Session

- Require use of forms that State Board has printed.

1972

- Provide contributions of \$100 or less may be reported as lump sum.

1975

- Revise; delete form; require information on business/occupation for contributions of \$500 or more; cover aggregated contributions.

1976

- Exclude filing fees.

1978

- Require information on business/occupation for contributions of \$250 or more.

1983

- Revise and include information on loans.

12. Advertising. § 24.1-259. (Repealed.)

Original proposal

- Require media to report to State Board on political ads purchased by persons other than the candidate.

1975

- Repealed.

- C 5 -

13. Reports required to qualify for office. § 24.1-260.

Original proposal

1972

1982, 1986 and 1988

- Require filing of pre-election report and 30-day post-election report to qualify.
- Provide that officer who issues election certificate need not determine whether duplicate filings have been made with other officers.
- Update references to required pre-election reports.

14. Custody of reports. § 24.1-261.

Original proposal

1980

1982

1983

- Provide reports are open to inspection and to be retained for one year.
- Provide for copying reports at cost.
- Extend retention requirement through next election for the office.
- Add reference to final report.

15. Penalty. § 24.1-262.

1975 (New)

- Add penalty provision; cover aiding, abetting or participating in violation.

16. Reporting violations. § 24.1-263.

1979 (New)

- Require State Board or local board (depending on the office involved) to report willful violations to appropriate Commonwealth's attorney.

