

**REPORT OF THE
VIRGINIA CODE COMMISSION ON THE**

**Recodification of
Title 24.1 of the
Code of Virginia**

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



SENATE DOCUMENT NO. 25

**COMMONWEALTH OF VIRGINIA
RICHMOND
1993**

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***Report of the
Virginia Code Commission
on
The Recodification of Title 24.1 of the Code of Virginia
to
The Governor and the General Assembly of Virginia***

Richmond, Virginia
January, 1993

TO: The Governor
and
The General Assembly of Virginia

The 1991 General Assembly requested the Virginia Code Commission to study and revise Title 24.1 and to report its findings to the Governor and the 1993 Session of the General Assembly in the form of a recodified title. 1991 SJR 242. The Resolution directing this recodification emphasized the need to eliminate obsolete and duplicative provisions and to use plain and precise language. The goal of this recodification is a clearer, more easily understood set of election laws and the elimination of ambiguities in the present law rather than substantive changes in the law.

By way of contrast, the Title 24.1 recodification of the election laws was undertaken by the Election Laws Study Commission and enacted in 1970. That earlier recodification emphasized a large number of substantive changes, including the establishment of the central registration roster by the State Board of Elections, the elimination of the remnants of the precinct registration system, required statewide use of voting machines, elimination of the run-off primary, restrictions on the use of absentee ballots as a means to reduce abuses of the absentee ballot process, and expanded campaign finance disclosure provisions. Those reforms have proven to be beneficial over the past two decades.

Many of the changes in proposed Title 24.2 are the progeny of the substantive revisions enacted in 1970. Over a 23-year span, the automated voter registration system, the role of the general registrar, and the campaign disclosure laws have changed and matured. Most of the changes have been piecemeal. The present recodification provides the opportunity to review provisions in the context of the whole title -- a process not feasible during the regular legislative sessions.

There is considerable restructuring in proposed Title 24.2 as the outlines of the organization of Titles 24.1 and 24.2 indicate. The reorganization is designed to provide a more logical framework for the title beginning with definitions and the administrative structure for our registration and election system. Definitions and terminology are brought up to date. Many changes reflect the effort to use simpler, more easily understood language.

The outlines, the recodification of Title 24.1, and related revisions in Title 15.1 are set out in Appendix I. Appendix II carries the comparative tables which cross-reference the sections of Title 24.1 with counterpart sections in Title 24.2 and vice versa.

The Code Commission proposes that the recodification take effect December 1, 1993, after the conclusion of the 1993 election cycle. The recodification will be submitted to the United States Department of Justice for review pursuant to Section 5 of the Voting Rights Act as was done in 1970 and is done for all changes in the election laws.

The Secretary and staff of the State Board of Elections, the staff of the Attorney General's Office, and representative general registrars provided much appreciated assistance to the Code Commission in this study.

The Code Commission recommends that the General Assembly enact legislation at the 1993 Session to adopt proposed Title 24.2 and related revisions in Title 15.1.

Respectfully submitted,

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APPENDIX I
Recodification of Title 24.1: Elections

<u>CURRENT OUTLINE</u>		<u>PROPOSED OUTLINE</u>	
	Title 24.1 Elections		Title 24.2 Elections
Chapter 1.	Apportionment of Representatives. §§ 24.1-1 through 24.1-17.3.	Chapter 1.	General Provisions and Administration.
Chapter 1.1.	Senatorial Districts of Virginia. 24.1-17.4 through 24.1-17.47.	Article 1.	Applicability; definitions.
Chapter 1.2.	House of Delegates Districts. §§ 24.1-17.100 through 24.1-17.203.	Article 2.	State Board of Elections.
Chapter 1.3.	Congressional Districts of Virginia. §§ 24.1-17.300 through 24.1-17.314.	Article 3.	Local Electoral Boards.
Chapter 2.	State Board of Elections. §§ 24.1-18 through 24.1-28.	Article 4.	Registrars.
Article 1.	In General.	Article 5.	Officers of Election.
Article 2.	Central Registration Roster.	Article 6.	Miscellaneous Provisions.
Chapter 3.	Electoral Boards. §§ 24.1-29 through 24.1-35.1.	Chapter 2.	Federal, Commonwealth, and Local Officers.
Chapter 4.	Election Districts. §§ 24.1-36 through 24.1-40.	Article 1.	General Provisions.
Chapter 4.1.	Cooperation With Census Bureau; Requirements for Election Districts. [Expired or Repealed.]	Article 2.	Federal Offices.
Chapter 4.2.	Requirements for Elections Districts and Precincts. §§ 24.1-40.7 through 24.1-40.11.	Article 3.	Statewide Offices: Governor, Lieutenant Governor, and Attorney General.
Chapter 5.	Qualifications of Voters and Registration §§ 24.1-41 through 24.1-72.	Article 4.	General Assembly.
Chapter 5.1.	Special Registration. §§ 24.1-72.1 through 24.1-72.15.	Article 5.	Constitutional and Local Officers.
Article 1.	Temporary Registration for	Article 6.	Vacancies in Elected Constitutional and Local Offices.
		Article 7.	Removal of Public Officers from Office.
		Chapter 3.	Elections Districts, Precincts, and Polling Places.
		Article 1.	Joint Reapportionment Committee.
		Article 2.	Congressional, Senatorial, and House of Delegates Districts.
		Article 3.	Requirements for Election Districts, Precincts, and Polling Places.
		Article 4.	Effective Dates of Redistricting Measures.
		Chapter 4:	Voter Registration.
		Article 1.	Qualifications.
		Article 2.	Virginia Voter Registration System.
		Article 3.	Locations and Times for Registration.
		Article 4.	Registration of Voters.

Article 2. Presidential Election.
Early Registration for Congressional
and Presidential Elections.
[Repealed.]

Article 3. Temporary Absentee Registration for
Certain Overseas Citizens.

**Chapter 6. Commonwealth and Local
Officers.**
§§ 24.1-73 through 24.1-94.

Article 1. In General.
Article 1.1. Removal of Public Officers From
Office.
Article 2. Commonwealth Officers.
Article 3. City, County and District Officers.
Article 4. Local Officers.

Chapter 7. The Election.
§§ 24.1-95 through 24.1-235.

Article 1. In General.
Article 2. Presidential Elections.
Article 2.1. State Selection Procedures for
Nomination of Presidential
Candidates. [Repealed.]
Article 3. Special Elections.
Article 4. Candidates for Office.
Article 5. Primary Elections.
Article 5.1. 1988 Presidential Preference
Primary Election. [Repealed.]
Article 6. Voting Machines.
Article 7. Absentee Voting.

**Chapter 8. Contested Elections and
Recounts.**
§§ 24.1-236 through 24.1-250.

Chapter 9. Fair Elections Practices Act.
§§ 24.1-251 through 24.1-263.1.

Chapter 10. Election Offenses; Penalty.
§§ 24.1-264 through 24.1-282.

Article 5. Cancellation of Registration.
Article 6. Temporary Registration for
Presidential Elections.
Article 7. Temporary Absentee Registration
for Federal Elections.
Article 8. Registration Records Generally.

Chapter 5. Candidates for Office.

Article 1. Qualification and Requirements of All
Candidates.
Article 2. Independent Candidates.
Article 3. Nominations of Candidates by
Political Parties.
Article 4. Conduct of Primaries.
Article 5. Death, Withdrawal, or
Disqualification of Party Nominee.
Article 6. Nominations for Presidential
Elections.

Chapter 6. The Election.

Article 1. General Provisions; Polling Places.
Article 2. Ballots.
Article 3. Voting Equipment and Systems.
Article 4. Conduct of Election; Election
Results.
Article 5. Special Elections.

Chapter 7. Absentee Voting.

**Chapter 8. Recounts and Contested
Elections.**

Article 1. Recounts.
Article 2. Contested Elections.

**Chapter 9. Campaign Finance Disclosure
Act.**

Article 1. General Provisions.
Article 2. Candidates and Campaign
Committees.
Article 3. Persons and Committees Other
Than Campaign Committees.
Article 4. Disclosure Reports.
Article 5. Penalties.

**Chapter 10. Election Offenses Generally;
Penalties.**

ELECTIONS.

CHAPTER 1.

GENERAL PROVISIONS AND ADMINISTRATION.

Chapter Drafting Note: Proposed Chapter 1 brings together at the outset of the Title the definitions and the administrative framework for the election laws in a new introductory chapter. The first article sets out revised definitions with changes to reflect the evolution in voter registration and election laws since the 1970 recodification.

The administration of voter registration and election laws is carried out by the State Board of Elections, the local electoral boards, the general registrars' offices, and the officers of election. The provisions on the structure and duties of these administrative personnel are scattered in the present title and it is useful to bring these provisions together at the beginning of Title 24.2 as a means to set the framework for the title and to eliminate repetition.

Proposed Articles 2 and 3 on the State Board of Elections and the local electoral boards are taken primarily from existing Chapters 2 and 3. Proposed Articles 4 and 5 on voter registrars and officers of election are drawn from existing Chapters 5 and 6. Several provisions applicable to all local election personnel are included in proposed Article 6.

Article 1.

Applicability; definitions.

§ 24.1-95 24.2-100 . ~~To what elections~~ *Applicability of title applicable.* —The provisions of this title shall apply to all elections held in this Commonwealth except as is otherwise provided by general law.

Drafting Note: No change. This provision is moved from the beginning of the chapter on election procedures to the beginning of the title since it relates to the application of the entire title.

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

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

(2) ~~"Candidate" shall mean any person who seeks or campaigns for any office of the Commonwealth or of any of its governmental units in a primary, general, or special election by the people and is qualified to have his name placed on the ballot. "Candidate" shall include a person who seeks the nomination of a political party or who, by reason of receiving the nomination of a political party for election to any such office, is referred to as a "nominee." For the purposes of Chapters 8 (§ 24.1-236.1 et seq.) and 9 (§ 24.1-251 et seq.) of this title, "candidate" shall also include a write-in candidate;~~

(3) ~~The word "Commonwealth" shall mean the Commonwealth of Virginia;~~

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

(b) ~~"Central absentee voter election district" means any district established pursuant to § 24.1-232.1 which may be a county, city, town, election district of a county or combination thereof, election district of a city or combination thereof, or any combination of precincts;~~

(5) ~~Elections:~~

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

(b) ~~"Primary" or "primary election" means an election held for the purpose of nominating~~

candidates as nominees of political parties for election to offices; and for the purpose of electing persons as members of the committees of political parties;

(e) "Special election" means any election which is held pursuant to law to fill a vacancy in office or to submit to the qualified voters for adoption or rejection a question or proposition, provided that a special election shall be held on a Tuesday and may also be held on the day of a general election; but shall not be held on the same day as a primary election. An election to fill a vacancy in any county, city or town office, including any office named in Article VII, Section 4, of the Constitution of Virginia, regularly elected in a November general election shall be held on a regular November general election day and an election to fill a vacancy in any city or town office regularly elected in a May general election shall be held on a regular May general election day;

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

(7) "Party" or "political party" shall mean an organization or affiliation of citizens of the Commonwealth which, at either of the two preceding statewide general elections, polled at least ten percent of the total vote cast for any office filled in that election by the voters of the Commonwealth at large. Such organization or affiliation of citizens shall also have a state central committee and a duly elected chairman which have continually been in existence and holding office for the six months preceding the filing of a nominee. Notwithstanding the provisions of any prior definition in effect under this subdivision, any action taken on or before August 1, 1991, by, for or on behalf of any organization constituting a political party under the foregoing definition is hereby deemed to be valid, and any such organization shall be deemed to possess all rights, privileges and obligations pertaining to political parties, in the same manner as if the foregoing definition had been in effect continuously before such date;

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

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

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

(11) "Residence," for all purposes of qualification to vote, requires both domicile and a place of abode. In determining domicile, consideration may be given to the applicant's expressed intent, conduct, and all attendant circumstances including, but not limited to, financial independence, business pursuits, employment, income sources, residence for income tax purposes, marital status, residence of parents, spouse and children, if any, leasehold, sites of personal and real property owned by the applicant, motor vehicle and other personal property registration, and such other factors as may reasonably be deemed necessary to determine the qualification of an applicant to vote in an election district;

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

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

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

"Candidate" means a person who seeks or campaigns for an office of the Commonwealth or one of its governmental units in a general, primary, or special election and who is qualified to have his name placed on the ballot for the office. "Candidate" shall include a person who seeks the nomination of a political party or who, by reason of receiving the nomination of a political party for election to an office, is referred to as its nominee. For the purposes of Chapters 8 (§ 24.2-800 et seq.) and 9 (§ 24.2-900 et seq.) of this title, "candidate" shall include any write-in candidate.

"Central absentee voter precinct" means a precinct established by a county or city pursuant

to § 24.2-712 for the processing of absentee ballots for the county or city or any combination of precincts within the county or city.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"Special election" means any election which is held pursuant to law to fill a vacancy in

office or to hold a referendum.

“State Board” or “Board” means the State Board of Elections.

“Virginia voter registration system” or “voter registration system” means the automated central record-keeping system for all voters registered within the Commonwealth which is maintained as provided in Article 2 (§ 24.2-404 et seq.) of Chapter 4 of this title.

Drafting Note: The definitions are reorganized and set out in alphabetical order. Revisions in the definitions are as follows:

“Candidate” — no change in substance.

“Central absentee voter precinct” — uses more appropriate word “precinct” in place of “election district”; eliminates unnecessary language; deletes option for towns to use these precincts since this option has not been used by towns and is more appropriate for use by larger localities.

“Constitutional office” or “constitutional officer” — new definition; added to simplify references throughout title to this category of elected officials.

“Election” — new; formerly a heading for the definitions for general, primary, and special elections.

“Election district” — revised to distinguish between precincts and districts represented by elected officials. The reference to precincts is eliminated.

“Electoral board” or “local electoral board” — new; added because of the frequent use of these terms. County electoral board administers town elections under present § 24.1-93.

“General election” — no change in substance.

“Officer of election” — no change in substance. The reference to “judges and clerks of election” is obsolete and so deleted.

“Party” or “political party” — no change in substance. The final sentence of existing subdivision (7) is deleted. The sentence gave the 1991 revised definition retroactive effect and validated past actions of any party meeting the 1991 revised definition. Since the validation has taken place, the specific language relating to pre-1991 applications of the definition are no longer required. By the effective date of Title 24.2, three general elections will have occurred in 1991, 1992, and 1993 since the 1991 revision in the definition.

“Polling place” — no change in substance.

“Precinct” — no change in substance.

“Primary” or “primary election” — the definition is narrowed and the reference to party committee elections is deleted. These party committee elections are rare and addressed separately in proposed § 24.2-518.

“Qualified voter” — restated, without substantive change, to incorporate the constitutional requirements now carried in §§ 24.1-41 and 24.1-42.

“Qualified voter in a town” — no change in substance.

“Referendum” — new; added to provide one term in place of several now used in the title for elections on various propositions, questions, and issues.

“Registration records” — replaces “Books” as defined term for official records relating to voter registration.

“Residence” or “resident” — no change except to include “resident” in the definition.

“Special election” — simplified; substantive provisions are shifted from the definition to proposed § 24.2-682.

“State Board” or “Board” — new; added because of the frequent use of these terms.

"Virginia voter registration system" — new; provides term for state's central registration file.

Definitions for "Commonwealth" and "circuit court" are deleted. The former is not necessary since § 24.2-100 provides that the Title applies only to elections in Virginia and the term is in common usage. The later definition is not necessary since the term is well-understood and there are no longer separate Divisions in the City of Richmond Circuit Court requiring one to be named for election law purposes.

Article 2.

State Board of Elections.

~~§ 24.1-18~~ 24.2-102 . Appointment; terms; secretary; seal and office Secretary .— ~~There shall be a permanent board, which shall be known as the~~ The State Board of Elections ~~to is continued and shall consist of three members ; appointed by the Governor from the qualified voters of the Commonwealth , subject to confirmation by the General Assembly. In the appointment of the Board, representation shall be given to each of the political parties having the highest and next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election. A majority of the Two Board of Elections members shall be from of the political party which cast the highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial that election. When the Governor was not elected as the candidate of a political party, representation shall be given to each of the political parties having the highest and next highest number of members of the General Assembly at the time of the appointment and a majority of the two Board members shall be of the political party having the highest number of members in the General Assembly. The Each political party entitled to an appointment may make and file recommendations with the Governor for the appointment. Such Its recommendations shall contain the names of at least three qualified voters of the Commonwealth.~~

~~The regular terms of office of such Board members shall be four years, commencing February first after their appointment serve four-year terms beginning February 1, 1995, and each fourth year thereafter . Vacancies shall be filled for the unexpired terms. No member of the Board , except the secretary Secretary , shall be eligible for more than two successive four-year terms. A member appointed for an unexpired term may be appointed for the two succeeding four-year terms.~~

~~The Governor shall designate one member of the Board as the secretary Secretary , who shall receive such the salary as is fixed by law. The Board shall adopt a seal for its use, and bylaws for its own government and procedure. The Board shall be provided with necessary office space and equipment. The secretary Secretary may employ such the clerical, other assistants and personnel as may be required to carry out the duties imposed by this title. The provisions of § 2.1-41.2 shall not apply to this chapter section .~~

Drafting Note: Inappropriate language is deleted. The reference to a "permanent board" is deleted since the Board is statutory rather than constitutional. The provision on office space and equipment is deleted since the appropriation act is controlling.

The provision for a Board seal and bylaws is shifted to proposed § 24.1-103 on Board powers and duties.

The beginning date for future Board terms is stated explicitly. The prohibition on Board members, other than the Secretary, serving more than two successive terms is clarified. The limit is applied only to full terms. A member appointed to a partial term may be appointed to two succeeding four-year terms. An alternative approach would be to state that the limit applies to partial and full terms. [The 1970 recodification deleted, without comment, language similar to the new language proposed in this draft.]

The final sentence and cross-reference to § 2.1-41.2 is retained and modified to apply to this "section." Section 2.1-41.2 was enacted in 1977 and provides that agency heads serve at the pleasure of the Governor. The exception in existing § 24.1-18 for the State Board of Elections also was enacted in 1977 and preserves the four-year term for the Secretary.

~~§ 24.1-19~~ 24.2-103 . Powers and duties in general.—The State Board of Elections shall so supervise and coordinate the work of the county and city electoral boards and of the registrars as to obtain uniformity in their practices and proceedings and legality and purity in all elections. It shall make such rules and regulations not inconsistent with law as will be conducive to the

proper functioning of such and issue instructions and provide information to the electoral boards and registrars to promote the proper administration of election laws . Electoral boards and registrars shall provide information requested by the Board.

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

The Board may also file either petition a circuit court or the Supreme Court, whichever is appropriate, for a writ of mandamus or prohibition which writs will lie , or other available legal relief, for the purpose of fulfilling the requirements of § 24.1-76 or § 24.1-165 ensuring that elections are conducted as provided by law .

The Board shall adopt a seal for its use and bylaws for its own proceedings.

Drafting Note: The second sentence of the first paragraph is reworded to reflect the Board's practice of providing instructions and information to electoral boards, registrars, and their staffs. [Rules and regulations for the conduct of elections and concerning the eligibility of voters are exempt from the Administrative Process Act under § 9-6.14:4.1.] The third sentence is a general statement on the duty of electoral boards and registrars to provide information when requested by the State Board. These provisions are now found scattered in existing provisions such as §§ 24.1-35 and 24.1-46.

The third paragraph is clarified and revised as follows. First, the petition for the writ may be filed in either the circuit or the Supreme Court. Second, language is added to clarify that the Board's authority to petition for special writs is in addition to other legal remedies available to the Board. Third, the reference to §§ 24.1-76 and 24.1-165 is replaced by the reference to "elections" generally. The existing cross-reference reaches many, but not all, special election situations and allows the Board to obtain a writ to order an election required by law or to halt an election not authorized by law. The broader reference to "elections" gives the Board authority to petition for relief in both special and general election situations.

Finally, the provision for a seal and bylaws is transferred from existing § 24.1-18.

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

Drafting Note: Existing § 24.1-20 is repealed because it is redundant. First, proposed § 24.2-103 provides for oversight of registrars by the Board, including oversight of their responsibilities to maintain accurate registration records. Second, the Board's role in the purge process is covered in Chapter 4 and particularly in proposed Article 5 (§ 24.2-426 et seq.).

§ 24.1-21 24.2-104 . Requesting assistance for attorney for the Commonwealth; investigative committees.— The Board, in any instance in which it When the State Board is of opinion that the public interest will be served thereby , it may request the Attorney General, or other attorney designated by the Governor for the purpose, to assist the attorney for the Commonwealth of any jurisdiction in which election laws have been violated ; and the . The Attorney General, or the other attorney designated by the Governor, shall have full authority to do all things whatever is necessary or appropriate to enforce the election laws or prosecute violations thereof.

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

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

Drafting Note: No change in substance. Section 2.1-124 specifically provides that the Attorney General may institute or conduct criminal prosecutions for election law violations as provided in this section and cross-references this section.

~~§ 24.1-22~~ 24.2-105 . Board to prepare and distribute records for registration *Prescribing various forms* .—The State Board of Elections shall prepare ~~prescribe~~ appropriate forms ~~or~~ and records for the registration ; transfer, and identification of voters , *conduct of elections, and implementation of this title*, which shall be used throughout the Commonwealth. ~~The forms for registration and transfer shall require sufficient information to allow for maintenance of the required registration system and records.~~

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

Drafting Note: This section is revised to cover forms and records for Title 24.2 as a whole and not registration records only. Over the past two decades, numerous amendments to Title 24.1 have required the Board to prescribe various forms used in conducting elections and administering election laws. The provision is worded broadly to cover forms and records designed for electronic processing and hardcopy. Provisions concerning registration applications are set out in proposed § 24.2-418.

Article 3.

Local Electoral Boards.

~~§ 24.1-20~~ 24.2-106 . Appointment ; ~~term and oath of members and terms~~ ; vacancies; election of chairman and secretary; ~~duty of secretary prohibition as to officeholding~~ .—There shall be in each county and city an electoral board ; composed of three members ; who shall be appointed by a majority of the circuit judges of the judicial circuit for ~~such~~ the county or city. If a majority of ~~such~~ the judges cannot agree, the senior judge shall make ~~such~~ the appointment. Any vacancy occurring ~~in the boards on a board~~ shall be filled by the same authority for the unexpired term. The clerk of the circuit court shall send to the State Board of ~~Elections~~ a copy of each order making an appointment to an electoral board.

In the appointment of the electoral board, representation shall be given to each of the two political parties having the highest and next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial election. ~~A majority of the Two~~ electoral board members shall be ~~from~~ of the political party which cast the highest number of votes ~~in the Commonwealth~~ for Governor at the last preceding gubernatorial ~~that~~ election. When the Governor was not elected as the candidate of a political party, representation shall be given to each of the political parties having the highest and next highest number of members of the General Assembly at the time of the appointment and a ~~majority of the two~~ board members shall be of the political party having the highest number of members in the General Assembly. The political party entitled to the appointment may make and file recommendations with the judges for the appointment. ~~Such~~ ~~Its~~ recommendations shall contain the names of at least three qualified voters of the county or city.

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

The board shall elect one of its members as chairman and another as secretary. The chairman and the secretary shall represent different political parties, unless the representative of

the ~~second-ranked~~ political party having the ~~second highest~~ number of votes declines in writing to accept either of such offices the ~~unfilled office~~. The members of the board shall qualify by taking and subscribing the oaths as set forth in Article II, Section 7 of the Constitution of Virginia before entering upon their term of office.

~~Whenever any~~ The secretary of the electoral board is elected he shall at once ~~immediately~~ notify the State Board of Elections of his election and ~~inform it of his post office address and telephone number~~. The secretary shall also inform the Board of Elections of the names, post office addresses and telephone numbers of the other members of the electoral board. ~~of any change in the membership or officers of the electoral board and shall keep the Board informed of the name, residence and mailing addresses, and home and business telephone numbers of each electoral board member.~~

Members of the boards are to be appointed on a staggered term basis, one term to expire at midnight on the last day of February each year. In counties and cities where terms are not so staggered, appointments shall be made as follows: If all three terms expire at midnight on the last day of February of the same year, in that year only one member shall be appointed for a three-year term, one member for a four-year term and one member for a five-year term; if two terms expire at midnight on the last day of February of the same year, in that year only one member shall be appointed for a three-year term and the other for either a four-year or five-year term whichever will not coincide with the end of the term of the member in office. If any member has been appointed for a term other than one to expire at midnight on the last day of February, his successor shall be appointed for a term to expire at midnight on the last day of February of the year that preserves the staggered terms of the board.

~~§-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 ~~§-24.1-28~~ this section .

Drafting Note: Existing § 24.1-33.1 prohibits an electoral board member from running for or holding an office voted on by voters in his county or city. This provision is included in this section with the other qualification and vacancy provisions for electoral boards. The provision on the oath of office is shifted to proposed § 24.2-120 and consolidated with provisions on the oath for registrars and officers of election. The language in the final paragraph of existing § 24.1-29 to establish and preserve the staggered-term structure has served its purpose and is deleted. In lieu of that paragraph, the second sentence in the third paragraph specifies that no term shall be cut short because of a shift in party control following a gubernatorial election.

~~§ 24.1-30~~ 24.2-107 . Meetings; quorum; notice; account of proceedings; seal; records open to inspection.—The electoral board of each city and county shall ~~convene in regular session at such time meet~~ during the first week in the month of February and ~~in during~~ the month of March of each year as at the time set by the board may prescribe, and at any other time upon the call of any board member of the board, and at any special meeting the board shall have the same powers as at a regular meeting. At any session two . Two members shall constitute a quorum. Notice of ~~all meetings~~ each meeting shall be given to all board members of the board either by the secretary of the board or the member calling the meeting at least one day prior to said the meeting. Notice may be waived only by agreement of all of the board members of the board .

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

All books Books , papers, and records of the board shall be open to the inspection of any qualified by any registered voter whenever the general registrar's office is open for business either at the office of the board ; or if the board does not have an office at the office of the secretary of the board or the office of the general registrar. Such books, papers and records shall be available for inspection when such office is open for business and at such other times and days as may be fixed by the secretary of the board. Except, however, that during the period thirty days prior to an election such books, papers and records shall be available only to one duly designated representative of each nominee or candidate.

Drafting Note: Minor changes are made to simplify language. In the second paragraph, the reference to appointment and removal of "registrars" is clarified by stating "general registrars."

The local electoral board appoints and removes only the general registrar — not the assistant registrars. The final paragraph contains special provisions on inspecting electoral board records. The language on inspection times and places is revised to allow inspections at either the official public office of the electoral board or general registrar whenever the general registrar's office is open for business. The final sentence is deleted. It now limits the right to inspect electoral board records during the 30 days before an election to only one representative per candidate. There is no discernible reason for this limit which was introduced during the 1970 recodification without comment.

~~§ 24.1-31~~ 24.2-108 . Compensation and expenses of members.— Each member of the electoral board shall receive as annual compensation for his services a sum in accordance with the compensation plan set forth in the general appropriations act.

The counties and cities shall furnish the necessary postage and stationery, including a bound book for the minutes of its proceedings, for the use of the board.

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

Each member of the electoral board, including the secretary, shall receive the compensation set forth in the general appropriations act and, before he is entitled to receive any other amount in accordance with the expense plan set forth in the general appropriations act, shall make out a statement under oath of his claim for mileage and expenses, and the statements, when so made out and found correct, shall be paid by the governing body of the county or city for which the board was appointed and for which the service was rendered or expense incurred. Each governing body shall be reimbursed annually for such sums from the state treasury to the extent of (i) such compensation, (ii) not more than \$300 for costs incurred in the conduct of the electoral process, including expenses of the secretary of the electoral board, and (iii) mileage paid to members of the electoral boards, all to the extent as may be appropriated by law. The General Assembly shall establish a compensation and expense plan in the general appropriation act for the secretaries and members of the electoral boards. The governing body for the county or city of each electoral board shall pay compensation, expenses, and mileage in accordance with the plan and be reimbursed annually as authorized by the act.

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

The governing body of any county or city may determine and pay to the secretary of the electoral board such any additional allowance for expenses as it deems appropriate ; and may determine and pay to the a full-time secretary of the electoral board such any additional compensation as they deem necessary, which additional expenses and compensation shall not be reimbursed from the state treasury if it deems appropriate .

Each county and city shall furnish necessary postage and office supplies for the electoral board.

Drafting Note: The compensation and expense plan for the electoral boards has been set out in the general appropriation act in detail since 1984. The provisions of the current act override existing § 24.1-31. For example, the current authorization for "electoral process" expenses is \$1,000 annually rather than \$300. The only provisions in existing § 24.1-31 not explicitly addressed in the current appropriation act are (i) the provision for mileage reimbursement at the rate payable to General Assembly members and (ii) the requirement for a sworn mileage and expense statement. These provisions are retained in the proposed draft with the modification that claims for mileage and expenses may be submitted in writing. The present requirement for filing these claims "under oath" is deleted because it is at odds with the usual practice for filing expense claims.

~~§ 24.1-32~~ 24.2-109 . Appointment of and removal of general registrar and officers of election and general registrars by board ; powers and duties in general .— A. Each electoral board shall appoint the officers of election general registrar for its city or county and officers of election for each precinct who shall serve in all elections, including the towns therein town elections, as provided in this chapter . The secretary of the electoral board shall promptly notify each appointee of his appointment. Before any officer of election shall enter upon the performance of the duties imposed upon him by law he shall take and subscribe the oath prescribed in the

~~Constitution. Each electoral board shall also appoint a general registrar. The oath of office for the officers of election and registrars may be administered by a person authorized to administer the oath in § 40-3 or by a notary. In appointing the officers of election, representation shall be given to each of the two political parties which, at the general election next preceding their appointment, cast the highest and next highest number of votes, such representation at each precinct having an even number of officers of election to be equal and at each precinct having an odd number of officers of election to vary from equality by no more than one.~~

Members of electoral boards, officers of election, general registrars, and assistant registrars shall be deemed, for all purposes, except as otherwise specifically provided by state law and including rules and regulations of the State Board of Elections, to be employees of the respective cities or counties in which they serve. Assistant registrars who agree to serve without pay shall not be deemed to be either state or local employees for any purpose.

~~§ 24.1-34. Board may remove general registrar or officers of election; filling vacancy in office of general registrar.— The electoral board may remove from office , on notice, any general registrar or officer of election upon notice, who fails to discharge the duties of his office according to law.~~

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

B. The electoral board shall perform the duties assigned by this title including, but not limited to, the preparation of ballots, the administration of absentee ballot provisions, the conduct of the election, and the ascertaining of the results of the election.

Drafting Note: Subsection A combines provisions in existing §§ 24.1-32, 24.1-34, and 24.1-43 concerning the electoral board's powers and duties to appoint the general registrar and officers of election and to remove them from office. Specific terms of office, vacancy provisions, and qualifications for these offices are set out in subsequent provisions in this chapter pertinent to each office. See §§ 24.2-110 and 24.2-115. The provisions relating to the oath of office are set out in proposed § 24.2-120. The paragraph on the status of election personnel as local employees is shifted to proposed § 24.2-122 and revised.

Subsection B is a general statement of the range of duties imposed by existing law on the electoral boards.

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

Drafting Note: Existing § 24.1-35 is repealed because it is obsolete. This information is provided automatically by the computer network which now links the State Board and local offices. The catchall provision which requires local boards to comply with State Board requests for information is covered in proposed § 24.2-103.

Article 4.

Registrars.

~~§ 24.1-43 24.2-110 . Appointment, qualifications oath and compensation , and term of general registrar; office to be furnished; vacancies; prohibition as to office holding officeholding .—Each electoral board in the Commonwealth at its regular meeting shall meet in the first week in March ; 1983 1995 , and every four years thereafter, and shall appoint a general registrar, who shall be a qualified voter of the jurisdiction county or city 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. General registrars shall serve four-year terms beginning April 1, 1995, and each fourth year thereafter, and continue in office until a successor is appointed and qualifies.

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

Such No general registrar shall not hold any other office, by election or appointment, during his term while serving as general registrar; however, with the consent of the electoral board, other duties not inconsistent with law may be undertaken by the general registrar, provided such he may undertake other duties which do not conflict with his duties as general registrar. General registrars shall not serve as officers of election. The election or appointment of a general registrar to any other office shall vacate the office of the general registrar. 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 governing body shall also provide premises liability insurance coverage for such office space. 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 § 24.1-07, 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. 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 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. There shall be no reimbursement out of the state treasury for such supplements. 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 in whole or in part by the qualified voters of his jurisdiction at any election held during the time he serves as general registrar or for the six months thereafter.

§-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.

Drafting Note: This section has been reorganized to include all qualifications for the general registrar and the provisions on his term of office and vacancies. Proposed § 24.2-110 includes parts of existing §§ 24.1-32, 24.1-34, 24.1-43, and 24.1-44 and all of existing § 24.1-33.2. The provisions on compensation are set out in proposed § 24.2-111. The provisions on the oath of office are set out in proposed § 24.2-120. Provisions relating to the physical office, furnishings, and days of service of the general registrar have been moved to proposed § 24.2-411 with provisions on registration times and places.

~~§ 24.1-44. Term of office and disqualification of registrar.—The term of office of the general registrar shall begin on April 1, 1982, and every four years thereafter, and shall continue until a successor is duly appointed and qualified. The appointment or election of a general registrar to any other office shall vacate the office of general registrar.~~

Drafting Note: The contents of this section have been included in proposed § 24.2-110.

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

~~Each locality shall pay the reasonable expenses of the general registrar, including reimbursement for mileage at the rate payable to members of the General Assembly. In case of a dispute, the State Board shall approve or disapprove the reimbursement.~~

Drafting Note: The compensation plan for the general registrars has been set out in the general appropriation act in detail since 1984. The provisions of the current act override existing § 24.1-43, the source for this proposed section. The provision for local reimbursement of the general registrar's expenses is not addressed in the act and is retained in this proposed section. Existing § 24.1-43 refers to State Board approval for reimbursement of these expenses. In fact, reimbursement claims are not reviewed or approved by the State Board. The proposed language PIN2oints that the State Board would act only in the event of a disputed claim.

~~§ 24.1-46 24.2-112 . Assistants to general registrars ; employees .—The electoral board shall determine the number and set the term for assistant registrars provided that the term of an assistant registrar ; however, their terms shall not extend beyond the term set by law of the incumbent general registrar. The general registrar shall establish the duties of assistant registrars, appoint assistant registrars, and have authority to remove any assistant registrar who fails to discharge the duties of his office.~~

~~In cities and counties any county or city whose population is over 15,500, there shall be at least 1 one assistant registrar who shall serve at least 1 one day each week in the office of the general registrar.~~

~~Localities with populations of less than 15,500 Any county or city whose population is 15,500 or less shall have 1 at least one substitute registrar who is able to take over the duties of the general registrar in an emergency and who shall assist the general registrar upon request when he requests .~~

~~All assistant registrars shall be appointed by the general registrar and shall have the same limitations and qualifications and fulfill the same requirements as the general registrar except that an assistant registrar may be an officer of election. Assistant registrars who agree to serve without pay shall be subject to the supervision of and training supervised and trained by the general registrar.~~

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

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

~~§ 24.1-45.3. 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.~~

Drafting Note: No change in substance. Existing §§ 24.1-45 and 24.1-45.3 are combined in proposed § 24.2-112 since the nepotism provision in § 24.1-45.3 is a direct limitation on the general registrar's appointment power.

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

Drafting Note: No change in substance. The reference to “deputy” registrars is deleted since the term is not used in the Title. Deputies are one category of assistant registrars.

§ 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. ~~On and after April 1, 1901, no private business enterprise shall be conducted in the principal public office provided for voter registration. 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 in person from a resident of any county or city in the Commonwealth. Registrars shall conduct such registration in accordance with written instructions from the State Board of Elections as to the method and timing for forwarding such applications and shall promptly forward within twenty-four hours by hand or first-class mail 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 §§ 24.1-50 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.

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

1. Maintain the office of the general registrar and establish and maintain additional public places for voter registration in accordance with the provisions of Article 4 (§ 24.2-411 et seq.) of Chapter 4 of this title. Participate in programs to educate the general public concerning registration and to encourage registration by the general public. No registrar shall actively solicit, in a selective manner, any application for registration or for a ballot or offer anything of value for any such application.

2. Perform his duties within the county or city he was appointed to serve, except that a registrar may 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.

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

4. Accept a registration application submitted in person by a resident of any other county or city in the Commonwealth. Registrars shall process registration applications from residents of other counties and cities in accordance with written instructions from the State Board and shall forward the completed application to the registrar of the applicant's residence within twenty-four hours by hand or first-class mail. The registrar of the applicant's residence shall accept as timely any application submitted prior to or on the final day of registration, determine the qualification of the applicant, and promptly notify the applicant at the address shown on the

application of the acceptance or denial of his registration.

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

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

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

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

9. After the return of the precinct registered voter lists by the State Board, retain the lists in his principal office for four years.

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

11. Whenever election districts, precincts, or polling places are altered, provide for entry into the voter registration system of the proper district and precinct designations for each registered voter whose districts or precinct have changed and notify each affected voter of changes affecting his districts or polling place by mail.

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

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

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

15. Carry out such other duties as prescribed by the electoral board.

Drafting Note: The list of specific duties assigned to general registrars is reorganized. The term "registrar" is used in present law and in Title 24.2 to refer to the general and assistant registrars. The first clause of proposed § 24.2-114 recognizes that assistant registrars also perform certain of the listed duties but always subject to the general registrar's supervision.

The duties listed in each subdivision have been revised as follows:

1 — present (1). A cross-reference is added to the substantive provisions on registration offices and locations. The prohibition on soliciting applications is restated to clarify that the registrar has the duty to encourage registration by the public generally, but is prohibited from selective solicitation of applications.

2 — present (1a); stylistic changes only.

3 — present (2); stylistic changes; shift power to administer oaths to 5.

4 — present (1b); stylistic changes only.

5 — present § 24.1-68 with rewording to clarify that the provision relates to maintaining order in the registration process; power to administer oaths transferred from 3, including power

to administer oaths to officers of election.

6 — present (6) and § 24.1-54; combines the more general provisions of § 24.1-54 to maintain records on the system approved by the State Board with the more specific requirements for preserving records of registered voters permanently and records of rejected or cancelled registrations for four years rather than two. The four-year requirement eliminates an inconsistency in current law and reflects current practice.

7 — present (7); no change in substance.

8 — new; replaces out-of-date (3) and reflects present practices.

9 — new; replaces part of present (4) which is obsolete and reflects present practices. See, also, subdivision 15 below.

10 — present (8), (12), and (13); combines duties to maintain accurate records, transfer registrations, and cancel registrations in one provision. The detailed responsibilities are spelled out in proposed Chapter 4.

11 — present (9); modified to include reference to polling places. See, also, § 24.2-306.

12 — present (10); stylistic and clarifying changes.

13 — present (11); stylistic changes only.

14 — present (17); stylistic changes only.

15 — part of present (4); no change in substance. See, also, subdivision 9 above.

Present subdivision (5) is deleted as obsolete since the information referred to on district lists and numbers of voters is provided automatically. The requirement to provide information requested by the State Board is covered in proposed § 24.2-103.

The present subdivision (14) requirement to copy registration books is deleted as obsolete. The procedures for reconstruction of destroyed records are covered in proposed § 24.2-446.

Present subdivision (15) is deleted since it is in conflict with proposed § 24.2-405 and existing § 24.1-23 which provide for the State Board to furnish such information to officeholders and candidates. Generally, the registrars do not furnish registered voter lists.

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

Drafting Note: Present § 24.1-68 is incorporated in proposed § 24.2-114 as subdivision 5.

Article 5.

Officers of Election.

~~§ 24.1-105~~ 24.2-115 . Appointment, terms, etc., qualifications, and term of officers of election.— It shall be the duty of the Each electoral board of each city and county, at their its regular meeting in the first seven days of the month first week of February each year, to shall appoint ; in conformity with the requirements of §§ ~~24.1-22~~ and 24.1-106, officers of election whose . Their terms of office shall begin on the first of March one following their appointment ; and continue for one year or until their successors are appointed.

Not less than three competent citizens shall be appointed for each precinct and, insofar as practicable, each officer shall be a qualified voter of the precinct he is appointed to serve, but in any case a qualified voter of the city or county. In appointing the officers of election, representation shall be given to each of the two political parties having the highest and next highest number of votes in the Commonwealth for Governor at the last preceding gubernatorial

election. The representation of the two parties shall be equal at each precinct having an equal number of officers and shall vary by no more than one at each precinct having an odd number of officers. If possible, officers shall be appointed from lists of nominations filed by the political parties entitled to appointments. The party shall file its nominations with the secretary of the electoral board at least ten days before February one each year.

~~Officers of election so appointed shall serve for all elections held in their respective precincts during their terms of office except that . However , for a primary election involving only one political party, persons representing the political party holding such election the primary shall be the only serve as the officers of election in any county or city in which said the political party has submitted a list or lists of persons of nominations as provided in §-24.1-106 above .~~

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

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

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

~~A The secretary of the electoral board shall prepare a list containing the names of election the officers so appointed shall be made of election which shall be available for inspection and posted in the general registrar's office in the county or city for which they are appointed prior to the date on which their term of office begins March one each year .~~

~~The mere failure to so appoint shall not render void any election.~~

Drafting Note: This proposed section brings together provisions from existing §§ 24.1-32, 24.1-105 and 24.1-106 on the appointment and qualifications of officers of election—particularly provisions on representation for the two major political parties. One ambiguity in present law concerns the question of which election determines political party representation on electoral boards and among officers of election. The reference to the preceding “general” election in existing § 24.1-32 contrasts with the reference to the preceding “gubernatorial” election in other sections including existing § 24.1-106. In proposed § 24.2-115, the second paragraph provides that the election for Governor controls party representation requirements and makes this section consistent with other similar provisions in proposed Chapter 1. The requirement that the electoral boards and officers of election include representatives of the two major parties is set out in Article II, Section 8, of the Constitution which uses the phrase “general election.” The statutory provisions define this term as the statewide election for Governor so that there will be one election result used in all localities. Otherwise, a “general election” could include elections for multiple offices and uncontested and non-partisan elections and leave it doubtful which two parties had received the most votes.

The final sentence of existing § 24.1-105 is stricken as surplusage because it simply restates applicable general law which disfavors voiding an election. Moreover, unnecessary questions are raised when this type of special savings clause is included for one situation and not included for other comparable situations.

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

Drafting Note: The contents of this section have been incorporated in proposed § 24.2-115.

~~§ 24.1-107. 24.2-116 . Compensation of officers.—The governing body of each county, city, or town shall pay its officers of any election shall receive as compensation for their services the~~

sum of at least thirty dollars for each day's service rendered on each election day. The In addition, the governing body of any county, city or town may increase the compensation herein prescribed for officers of election.

The chief officer of election, or if unable, the assistant, shall pick up and carry to the polling place the pollbooks and ballots if so directed by the electoral board and an officer of election shall carry the returns of the election and ballots as provided in § 24.1-143 from the polling place. The chief officer, assistant or officer of election shall receive for each such service the sum of ten dollars, and mileage as paid to the members of the General Assembly. shall pay each officer ten dollars and mileage at the rate payable to members of the General Assembly for each time he delivers pollbooks and ballots to the polling place and each time he delivers returns and ballots to the appropriate official after the polls close.

Drafting Note: No change in substance. Provisions concerning the duties of the officers to transport election materials are covered by proposed § 24.2-610.

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

Drafting Note: The nepotism provisions applicable to appointments by electoral boards and general registrars differ from existing § 24.1-105.1 by including grandchildren and in-laws. Proposed § 24.2-117 includes grandchildren as well as grandparents, since the relationship is equal in degree, but the section is not expanded to reach in-laws.

§ ~~24.1-108~~ 24.2-118 . Appointments when officers fail to attend serve .— Should any of the officers appointed for any place of voting fail or refuse to attend or to act at the place of voting for one hour after the time prescribed by law for opening the polls at such election, it shall be the duty of If an officer of election is absent or unable to serve and the polls have been open for one hour, the remaining officers of election ; if any, to shall appoint a substitute officers officer of election for such election district, who the precinct. The substitute officer shall possess the same qualifications and upon , after taking the requisite oath shall , have the same powers as officers appointed by an electoral board.

Drafting Note: No change in substance.

Article 6.

Miscellaneous Provisions.

§ ~~24.1-33~~ 24.2-119 . Restrictions on persons holding other offices serving as member of electoral board, registrar , or officer of election.—No person, nor the deputy of any person, who is employed by or holds any office or post of profit or emolument, or who holds any elective office of profit or trust, under the governments of the United States, the Commonwealth, or any county, city, or town, shall be appointed a member of the electoral board or general registrar. No person, nor the deputy or the employee of any 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.

Drafting Note: No change in substance. This section restates the constitutional restrictions. The word "such" is deleted to conform the section to the language in Article II, Section 8, of the Constitution.

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

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

copy with the secretary of his electoral board.

The oath of office for assistant and substitute registrars and for officers of election may be administered by a notary as well as by persons authorized to administer oaths under § 49-3.

Drafting Note: This section consolidates provisions on the oath of office found in existing §§ 24.1-29, 24.1-32, and 24.1-43. No change in substance except to specify that the original oaths of electoral board members are filed at the circuit court clerk's office.

~~§ 24.1-21.1.~~ 24.2-121. Defense of the electoral board, its members, and the general registrar; appointment of counsel.— ~~In the event that~~ If any electoral board, any of its members, any general registrar, or any employee of or paid assistant to a registrar is made defendant in any civil action arising out of the performance of his official duties, and does not have legal defense provided under the applicable insurance coverage of his office, ~~such the officer or~~, employee, or assistant may ~~make application~~ apply to the circuit court of the county or city in which he serves to assign counsel for his defense in ~~such the~~ action. ~~The~~ On a showing of good cause, the court may; ~~upon good cause shown, make such~~ issue orders respecting the employment of an attorney or attorneys, including the attorney for the Commonwealth, as may be appropriate; and fix his compensation. Reimbursement of any expenses incurred in the defense of ~~such charge the~~ action may also be allowed by the court. ~~Such legal~~ Legal fees and expenses shall be paid from the treasury of the county or city; except in the case of appointment of the attorney for the Commonwealth.

Drafting Note: No change in substance. At present the local electoral board, electoral board members, and the general registrar participate in the state insurance plan for acts and omissions liability coverage and would have legal defense coverage under the state plan. See § 2.1-526.8.

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

Assistant registrars who agree to serve without pay are not state or local employees for any purpose.

Drafting Note: This provision from existing § 24.1-32 is moved to this article since it is applicable to electoral boards, registrars, and officers of election. These offices are hybrid, with state and local functions, and this revision explicitly recognizes that these offices serve both state and local functions. The second sentence restates the present law which requires that there must be express language in state law to treat these personnel as state employees. Otherwise they are deemed to be local employees. Current state law covers some of these personnel for certain purposes (insurance and defense against civil actions) and reimburses localities for compensation and expenses to the extent provided in the appropriation act. These personnel are treated as local employees for payroll and benefits purposes.

CHAPTER 2.

FEDERAL, COMMONWEALTH, AND LOCAL OFFICERS.

Chapter Drafting Note: Proposed Chapter 2 provides the election schedule, term, vacancy procedure, and method of removal for elected federal, state, and local officials, and for the removal of certain appointed officers. It is based primarily on existing Chapter 6 of Title 24.1, with the addition of other scattered provisions which logically fall within the proposed chapter.

Proposed Article 1 provides generally for the beginning and expiration of terms. The next three proposed articles detail the elections, terms, and filling of vacancies in federal (Article 2), statewide (Article 3), and General Assembly (Article 4) offices respectively. Some clarifying changes are made but substantive provisions of existing law are retained.

Proposed Articles 5 and 6 respectively address the election and terms of constitutional and local officers and the filling of vacancies in those offices. The term constitutional officer is used throughout to identify the five officials named in Article VII, Section 4 of the Constitution of Virginia (sheriff, attorney for the Commonwealth, treasurer, commissioner of the revenue, and clerk of the circuit court) and commonly referred to as constitutional officers. Elected school

board members are included in the articles to reflect the change in state law which now allows localities to opt for this selection method. Proposed Article 5 largely continues existing provisions. A conflict between existing § 24.2-73 and § 24.21-90 is resolved by requiring that municipal mayors and council members take office on July 1, notwithstanding any contrary charter provisions.

Proposed Article 6 does contain some substantive changes necessitated by contradictions and ambiguities in existing provisions controlling the filling of vacancies in constitutional and local offices when there are no other statutory or special act provisions to govern the situation. The basic principle which is applied is that local governing bodies and circuit courts should fill vacancies only on an interim basis until the vacancy can be filled for the remainder of the term in a special election, unless a special election cannot be held under the statutory guidelines set for the calling of special elections. An exception is made for smaller towns.

Proposed Article 7 specifies procedures by which elected and appointed officers may be removed from office, except in the case of those officers for whom the Constitution of Virginia provides a removal process. Based on existing Article 1.1 of Chapter 6 of Title 24.1, the proposed article makes stylistic and clarifying changes only.

Article 1.

General Provisions.

~~§ 24.1-73~~ 24.2-200 . When officers terms to enter upon their duties begin .— All The terms of all officers chosen at a November general election shall ; unless heretofore otherwise provided by charter or statute, enter upon the duties of their respective offices begin on the first day of January 1 next thereafter, except that, notwithstanding succeeding their election unless otherwise provided in this chapter. Notwithstanding any other provision of law, the terms of office of ~~mayors and members of councils of cities and towns~~ all officers elected at a May general election shall begin on the first day of July 1 succeeding their election. They shall continue to discharge the duties of their respective offices until their successors ~~shall have qualified~~ qualify .

Drafting Note: Clarifies and simplifies existing § 24.1-73 by referring to the two specific general election times. The proposed language reflects that any officer elected at the May general election, rather than mayors and councilmen only, would take office on July 1. An amendment to existing § 24.1-90 by the 1972 General Assembly allowed charter exceptions to the July 1 term commencement and thereby created a conflict between § 24.1-90 and § 24.1-73, which sought to override contrary charter provisions. This proposed chapter resolves the conflict by deleting the charter exception language from proposed § 24.2-222. The practice over the last twenty years has been to require July 1 in new charters, many cities and towns have amended their charters to include it, and few if any small town charters would still retain the September 1 provision. Since elections must take place in May, there appears to be no sound reason to have the new council wait almost four months to take office.

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

Drafting Note: No change in substance.

Article 2.

Federal Offices.

~~§ 24.1-8~~ 24.2-202 . Electors for President and Vice-President.— There shall be chosen by the The qualified voters of the Commonwealth ; at the election to be held on the Tuesday after the first Monday in November, 1972, and at elections to be held on the Tuesday after the first Monday in November in each fourth year thereafter, so many shall choose the Commonwealth's electors for President and Vice-President of the United States as this Commonwealth shall be entitled to at the time of such election under the Constitution and laws of the United States at the general election in November 1996 and every fourth year thereafter . Each voter voting in

such election shall vote for the a number of electors which shall be equal to equals the whole number of senators and representatives to which the Commonwealth may at that time be is entitled in the Congress of the United States.

Drafting Note: Simplifies and clarifies the language of existing § 24.1-8, but makes no substantive changes.

~~§ 24.1-9~~ 24.2-203 . ~~When and where Convening of electors convene ; how filling vacancies supplied; election of electors and meeting when Congress prescribes a different day ; how electors expected to vote .— Unless a different day be prescribed by authority of the United States, the~~ The electors shall convene at the capitol building in the capital city of the Commonwealth at twelve o'clock noon on the first Monday after the second Wednesday in December ; after following their election ; at the hour of twelve o'clock noon of that day . If there shall be any vacancy in the office of electors, occasioned by death, refusal to act, neglect to attend, or other cause, the Those electors present shall immediately proceed to fill , by ballot ; and by a plurality of votes, such vacancy any vacancy due to death, failure or inability to attend, refusal to act, or other cause . When the all electors shall appear are present , or the vacancies shall have been filled as above provided , they shall proceed to perform the duties required of such electors by the Constitution and laws of the United States.

Electors selected by the state convention of any political party as defined in § 24.2-101 shall be expected to vote for the nominees of the national convention to which the state convention elects delegates. Electors named in any petition of qualified voters as provided in § 24.2-543 shall be expected to vote for the persons named for President and for Vice-President in the petition.

§ 24.2-204. *Election of electors and meeting when Congress prescribes a different day.— If Congress shall determine or establishes a different time day for choosing electors, or appoint appoints a different day for their meeting to give their votes, under the requirements of the Constitution of the United States, then the election shall be held and the meeting of the electors take place at such times, respectively, as shall be prescribed by authority of the United States on those days .*

Drafting Note: No change in substance to existing § 24.1-9, which is divided into proposed §§ 24.2-203 and 24.2-204 because the second paragraph of § 24.1-9 applies to both preceding sections. The new second paragraph of § 24.2-203 contains the same provisions now found in existing § 24.1-162. That section is stricken and its substance included in this article so as to bring together the provisions related to electors.

~~§ 24.1-10~~ 24.2-205 . *Pay of electors.—Each elector shall be allowed receive the sum of fifty dollars per day while actually engaged in the discharge of his official duties ; and the same mileage as is allowed to members of the General Assembly.*

Drafting Note: Stylistic changes only.

~~§ 24.1-2~~ 24.2-206 . *Election and term of United States Senators.— United States Senators, in the Congress of the United States for the Commonwealth of Virginia, shall be elected by the The qualified voters thereof, of the Commonwealth shall elect its members of the United States Senate at the general election held in November next preceding the expiration of the each member's respective term of office of such United States Senators , for terms of six years to begin on January 3 following their election . Such Senators shall be chosen by the qualified voters in this Commonwealth. At such election, the candidate receiving the highest number of votes shall be declared elected.*

Drafting Note: Clarifies the section by removing redundant language. No change in substance. Existing § 24.1-148 already provides generally that the candidate receiving the highest number of votes is elected. The date for Senate terms to commence is set by federal law (2 USCS § 1) and is included in the proposed section primarily for informational purposes.

~~§ 24.1-3~~ 24.2-207 . *How Filling vacancies in Senate are filled .—When any vacancy shall occur occurs in the representation of the Commonwealth of Virginia in the United States Senate, the Governor shall issue a writ of election to fill such the vacancy for the remainder of the unexpired term . Such The election shall be held at on the next succeeding November general election date or, if the vacancy occurs within 120 days prior to that date, on the second*

succeeding November general election date . The Senator, so elected, shall hold such office for the unexpired term of the Senator whom such person is elected to succeed, but the The Governor may make a temporary appointment to fill such the vacancy until the qualified voters fill the same by election ; as hereinbefore required .

Drafting Note: No change in substance. Existing § 24.1-3 tracks statutory provisions which were first enacted in 1914 following ratification of the Seventeenth Amendment to the Constitution of the United States which provided for direct election of senators. The Seventeenth Amendment requires an election to fill vacancies, and allows the legislature by statute to authorize the governor to make an interim appointment, but does not specify a particular election time.

An ambiguity arises under the existing statute from specifying that the vacancy must be filled at the next succeeding November general election. A vacancy could occur, within a time frame shortly before a November election, such that there would not be sufficient time to nominate candidates and conduct elections. This ambiguity does not arise for other offices because vacancy provisions either permit a special election at times other than a general election date or carry the election over to the second succeeding general election if the vacancy occurs within a certain time of the next succeeding one. (See existing § 24.1-76, for example.)

If a vacancy now occurred too near the November general election to hold the special election, the election to fill the vacancy would be held at the second ensuing general election under existing statutes and federal case law despite the absence of a specific provision in present § 24.1-3. Proposed § 24.2-207 includes a specific provision to this effect in order to remove any confusion. The alternative of allowing the governor to call a special election for a date other than November would be a substantive change and is not proposed here.

~~§ 24.1-6~~ *24.2-208 . How and when representatives elected Election and term of members of House of Representatives .— Members of the House of Representatives of the Congress of the United States shall be chosen by the The qualified voters of the respective each congressional districts, district shall elect one member of the United States House of Representatives at the general election in November ; of the year 1970, 1994 and every second year thereafter, for the term of two years to begin on January 3 following his election .*

Drafting Note: No change in substance. Federal law (2 USCS § 7) establishes the date for commencement of terms of House members. It is included in the proposed section primarily for informational purposes.

~~§ 24.1-7~~ *24.2-209 . Governor to issue writs to fill vacancies Filling vacancies in House of Representatives.—When any vacancy shall occur occurs in the representation of the Commonwealth of Virginia in the House of Representatives of the Congress of the United States , or when a representative-elect shall die dies or resign resigns , the Governor shall issue a writ of election to fill such the vacancy. Upon receipt of written notification by a representative or representative-elect of his resignation as of a stated date, the Governor may immediately issue a writ to call such an the election.*

Drafting Note: No change in substance.

Article 3.

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

~~§ 24.1-80~~ *24.2-210 . Election and term of Governor, Lieutenant Governor , and Attorney General.—The Governor, Lieutenant Governor and Attorney General shall be chosen by the qualified voters of the Commonwealth shall elect the Governor, Lieutenant Governor, and Attorney General at the general election to be held on the Tuesday after the first Monday in November ; of the year 1973 1997 and every fourth year thereafter ; and shall hold their offices for a term terms of four years, to commence on the Saturday after the second Wednesday in January following their election.*

~~§ 24.1-81~~ *How election of Governor, Lieutenant Governor and Attorney General determined.—The returns of the election for Governor, Lieutenant Governor, and Attorney General shall be transmitted pursuant to § 24.1-150 to the State Board of Elections which shall*

cause the returns to be opened and the votes to be counted pursuant to §§ ~~24.1-152~~ and ~~24.1-154~~.

The person having the highest number of votes for each office shall be declared elected. If two or more shall have the highest and an equal number of votes for an office, one of them shall be chosen for the office by a majority of the total membership of the General Assembly. ~~Contested elections for Governor, Lieutenant Governor and Attorney General shall be decided by a like vote pursuant to the provisions of Chapter 8 (§ ~~24.1-236.1~~ et seq.) of this title .~~

Drafting Note: Proposed § 24.2-210 combines existing §§ 24.1-80 and 24.1-81 without any change in substance. The first and last sentences of existing § 24.1-81 are unnecessary since the provisions for counting the votes and resolving contests are set out elsewhere in the title.

~~§ 24.1-82~~ **24.2-211** . Discharge of duties when office of Governor is vacant or Governor is disabled.—When the Governor-elect is disqualified, resigns, or dies following his election but prior to taking office, the Lieutenant Governor-elect shall succeed to the office of Governor for the full term. When the Governor-elect fails to assume office for any other reason, the Lieutenant Governor-elect shall serve as acting Governor.

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

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

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

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

If a vacancy exists in the office of Lieutenant Governor when the Lieutenant Governor is to succeed to the office of Governor or to serve as acting Governor, the Attorney General, if he is eligible to serve as Governor, shall succeed to the office of Governor for the unexpired term or serve as acting Governor. If the Attorney General is ineligible to serve as Governor, the Speaker of the House of Delegates, if he is eligible to serve as Governor, shall succeed to the office of Governor. If a vacancy exists in the office of the Speaker of the House of Delegates or if the Speaker of the House of Delegates is ineligible to serve as Governor, the House of Delegates shall convene and fill the vacancy.

Drafting Note: The language in existing § 24.1-82 parallels that of Article V, Section 16, of the Constitution of Virginia and therefore is unchanged.

~~§ 24.1-84~~ **24.2-212** . Discharge of duties when office of Lieutenant Governor vacant.—When a vacancy occurs in the office of Lieutenant Governor ~~only~~ , the duties of that office shall be discharged by the President pro tempore of the Senate, but he shall not by reason thereof be deprived of his right to act and vote as a member of the Senate.

Drafting Note: No change in substance. There is no constitutional or statutory provision which specifically addresses filling a vacancy in the office. Chapter 30 of the 1973 Acts of Assembly removed the prior provision of § 24.1-84 for filling the vacancy by election if a general election was scheduled during the remainder of the unexpired term.

Article V, Section 7, of the Constitution of Virginia gives the governor the power to fill vacancies when there is no other provision. If the governor fills a vacancy in an elective office, the appointment is temporary and the vacancy is filled for the remainder of the term at the next general election. The Supreme Court of Virginia held that the governor's power to make such an appointment is discretionary rather than mandatory. Thus, if the governor chooses not to make a temporary appointment, the office will remain vacant and the President pro tempore would continue to discharge the duties of the office as provided in § 24.2-212.

~~§ 24.1-85~~ 24.2-213 . ~~How Filling~~ vacancy in office of Attorney General filled .— ~~When~~ If a vacancy occurs in the office of Attorney General during the session of the General Assembly in the office of Attorney General , it the General Assembly shall be filled by election fill the vacancy by the joint vote of the two houses a majority vote of the total membership . If such a vacancy occur occurs during a recess of the General Assembly, the Governor shall fill, pro tempore, the vacancy by commission to expire with the expiration of such appoint a successor to serve for the remainder of the unexpired term or at until the end of thirty days after the commencement of the next session of the General Assembly , whichever shall happen first. At such that next session, the General Assembly shall fill such the vacancy by election by the joint vote of the two houses a majority vote of the total membership for the unexpired portion of the term.

Drafting Note: The 1902 Constitution and earlier statutory provisions, including predecessor versions of this section, used the term, "joint vote of the two houses" in referring to various collective actions of the General Assembly. The 1971 Constitution substituted "majority vote of the total membership" as applied to votes to break ties and resolve election conflicts. Existing § 24.1-81 was amended to pick up the new language, but § 24.1-85 was not changed. Proposed § 24.2-213 adopts the new language.

Article 4.

General Assembly.

~~§ 24.1-13~~ 24.2-214 . ~~When Election and term of~~ Senators elected .— ~~Members~~ The members of the Senate of Virginia to represent each senatorial district of the Commonwealth shall be elected on at the general election Tuesday after the first Monday in November ; 1971 1995 ; and every four years thereafter ; for a term terms of four years, to begin on the second Wednesday in January succeeding their election.

Drafting Note: Changes are stylistic only.

~~§ 24.1-11~~ 24.2-215 . ~~When Election and term of~~ members of the House of Delegates elected; term of office .—The members of the House of Delegates shall be elected on at the general election Tuesday succeeding the first Monday in November ; 1971, 1995 and every two years thereafter for a term terms of two years , to begin on the second Wednesday in January succeeding their election.

Drafting Note: Changes are stylistic only.

~~§ 24.1-16~~ 24.2-216 . ~~How Filling~~ vacancies in the General Assembly filled .—When a vacancy occurs in the membership of the General Assembly during the recess of the General Assembly or when a member-elect to the next General Assembly shall die, resign or be dies, resigns, or becomes legally incapacitated to hold such office prior to its meeting, the Governor shall issue a writ of election to fill such the vacancy shall be issued by the Governor, and when such . If the vacancy happens occurs during the session of the General Assembly of which the person so dying or resigning or whose office is otherwise vacated is a member , the writ shall be issued by the Speaker of the House of Delegates ; or by the President Pro Tempore of the Senate, as the case may be , shall issue the writ unless the respective house by rule or resolution shall provide otherwise . Upon receipt of written notification by a member or member-elect of his resignation as of a stated date, the Governor, Speaker, or President Pro Tempore , as the case may be, may immediately issue the writ to call such an the election.

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

Drafting Note: The procedure for issuing writs of election to fill vacancies is changed to reflect the principle of separation of powers and to conform to Section 7 of Article IV of the Constitution of Virginia, which provides that "each house may direct writs of election for supplying vacancies" which occur when the General Assembly is in session. The first change is to provide that the President Pro Tempore will issue such writs for the Senate if the existing practice is continued. A legislative rather than executive branch officer, as is the Lieutenant Governor, should hold this responsibility. Secondly, the new language at the end of the second sentence will enable either house to assert its constitutional authority to issue writs if it so chooses. Other changes are stylistic except for the deletion of language in the last clause. This final clause is deleted because it is in conflict with and has been superceded by the 1990 enactment of existing § 24.1-17.2 (proposed § 24.2-311). The later enacted § 24.1-17.2 provides that a vacancy is to be filled from the new district when the vacancy occurs after redistricting. See drafting note to proposed § 24.2-311.

Article 5.

Constitutional and Local Officers.

~~§ 24.1-86~~ 24.2-217 . County and city sheriffs, Commonwealth's attorneys, treasurers, commissioners of revenue; when elected; term; qualifications of Commonwealth's attorney *Election and terms of constitutional officers* .—The qualified voters of the various counties each county shall elect a sheriff, an attorney for the Commonwealth, a treasurer, and a commissioner of the revenue at the general election in November ; 1971, 1995 and every four years thereafter unless a county has adopted an optional form of government which provides that the office be abolished or a county's charter so provides . The qualified voters of the various cities each city, unless its charter provides otherwise, shall elect a sheriff, an attorney for the Commonwealth, a treasurer, and a commissioner of the revenue ; and such other elective city officers whose election is not otherwise provided for by law or charter, at the general election in November ; 1973, 1997 and every four years thereafter. Every such officer elected prior thereto for a term of four years, which term may have expired, shall continue in office until the first day of January, 1974. Such officers All shall hold office for a term of four years from the first day of beginning January 1 next succeeding their election.

To qualify to be elected or hold office, an attorney for the Commonwealth shall be a member of the bar of this Commonwealth.

~~§ 24.1-87. Election and term of clerks of courts of record for counties and cities.—~~

The qualified voters of the several counties shall elect a clerk of the circuit court of record of the county at the general election in November ; 1975, 1999 and every eight years thereafter. The qualified voters of each city having a circuit court shall elect a clerk of the circuit court at the November 1995 general election and every eight years thereafter. Such clerks They shall hold office for a term of eight years from the first day of beginning the January 1 next succeeding their election.

The qualified voters of the several cities having a court or courts of record shall elect a clerk or clerks of the court or courts of record of the city at the general election in November, 1970 and every eight years thereafter. Every clerk of a court of record elected prior thereto for a term of eight years, which term may have expired, shall continue in office until the first day of January, 1980.

If a county and city share any of the offices to which this section applies, the qualified voters of the city shall cast their votes for that office according to the schedule set forth above for counties.

Drafting Note: Existing §§ 24.1-86 and 24.1-87 are combined in proposed § 24.2-217 so that all constitutional officers (those specified in Article VII, Section 4, of the Constitution) are covered under one heading. The substance of the two existing sections is not changed.

The proposed section explicitly recognizes that certain offices are abolished by some city charters and in some of the optional forms of county government, as constitutionally permitted, and that counties now may operate under charters which could abolish an office. It also codifies existing practice that cities which share an officer with a county vote on the county's schedule. Transition provisions which placed election of officers in all cities on the November general election schedule are no longer needed and are deleted. The deleted requirements relating to qualifications for attorney for the Commonwealth already are contained in § 15.1-40.1.

~~§ 24.1-88~~ 24.2-218 . Election and term of county supervisors.— ~~(a) In~~ *The qualified voters of each county magisterial district or election district there shall be chosen by the qualified voters thereof at the general election in November, in the year 1971 and every four years thereafter , elect one or more supervisors who shall hold office at the general election in November 1995 and every four years thereafter for the term terms of four years, except as provided in § 24.2-219 or as may be provided by law for those counties having the optional forms form of government under the provisions of Article 3 (§ 15.1-674 et seq. of Chapter 14 of Title 15.1 and except as hereinafter provided*

~~(b) (i)~~ *Notwithstanding the provisions of subsection (a) of this section or any other law to the contrary, the*

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

In lieu of a resolution an ordinance by the board of supervisors, upon the registered voters of the county may file a petition filed with the circuit court of the county signed by ten percent of the qualified voters of the county as of January 1 of the year the petition is filed requesting that a referendum be held on the following question :

“Shall the members of of whether the county board of supervisors should be elected biennially for staggered four-year terms ?” . The petition shall be signed by registered voters equal in number to at least ten percent of the number registered in the county on the January 1 preceding its filing.

The court pursuant to §§ 24.2-682 through 24.2-684 shall by order entered of record as provided in § 24.1-165 require the regular election officials on a day fixed in such the order to open a poll and take the sense of the qualified voters of the county conduct a referendum on the question submitted as herein provided . The clerk of the county court shall cause a publish notice of such the referendum to be published in some a newspaper having general circulation in the county once a week for four consecutive weeks and shall post a copy of such the notice at the door of the courthouse of the county. The ballot shall be printed to read as follows question on the ballot shall be :

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

Yes

No”

The ballots shall be counted, returns made and canvassed as in other elections and the result referendum shall be held and the results certified as provided in § 24.1-165 24.2-684 . Such referendum shall be held only in the year preceding the year in which a general election for supervisors is to be held, and no further such referendum may be held in the same county for a period of four years.

(ii) B. If a majority of the voters voting in such the election referendum voted for biennial election of the members of the board of supervisors for staggered four-year terms, or if the governing body shall have so provided by resolution ordinance , then the members of the board of supervisors shall be elected as follows:

The terms of their successors supervisors elected at the next general election for supervisors shall be as follows:

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

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

~~The electoral board of the county shall assign the individual terms of members by lot at the its meeting of the board as required by § 24.1-146 on the second day following the election and immediately upon certification of the results of the election . However, the assignment of such electoral board may assign individual terms of members may be determined by election district by in a drawing held by the electoral board at a meeting held prior to the last day for a person to qualify as a candidate , if the governing body of the county so directs by a ordinance or resolution adopted at least thirty days prior to the last day for such qualification and members are elected by district. In all elections thereafter all successful candidates shall be elected for terms of four years.~~

In any county where the chairman of the board is elected from the county at large pursuant to §§ 15.1-589.3 or 15.1-729 , the provisions of this section shall not affect such that office. The chairman of the board shall be elected for a term of four years in ~~1975~~ 1995 and every four years thereafter.

~~(iii) C. In the event the representation is on the board of supervisors among the magisterial districts or election districts is reapportioned, or the number of districts is diminished or the boundaries of the districts are changed, elections shall be held in each new district at the general election next preceding the expiration of the term of the office of the member of the board representing the predecessor district of each such new district. In the event the number of districts is increased, the electoral board shall assign a two-year or four-year term for each new district so as to maintain as equal as practicable a the number of members to be elected at each biennial election.~~

~~(iv) § 24.2-220. Reversion to quadrennial elections.- The governing body of any county, by resolution ordinance , may rescind a resolution repeal an ordinance previously adopted to provide for the election of the board of supervisors biennially for staggered four-year terms and provide for the election of the board of supervisors quadrennially for four-year terms. The qualified voters of the county, by petition and referendum in accordance with the requirements and procedures set forth in paragraph (i) of this subsection § 24.2-219 , may rescind a resolution repeal an ordinance of the board or a referendum previously adopted which authorized the election of the board of supervisors biennially for four-year terms. The question in the referendum to rescind shall be:~~

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

~~Yes~~

~~No”~~

~~If a majority of the voters voting in such election the referendum voted for quadrennial election of the members of the board of supervisors for four-year terms, or if the governing body shall have so provided by resolution ordinance , then the members of the board of supervisors shall be elected as follows:~~

~~For successors to those supervisors whose terms expire in the year ~~1983~~ 1995 or any fourth year thereafter which is a four-year increment thereof, their successors shall be elected for a four-year term ; and for immediate successors to those supervisors whose terms expire in ~~1985~~ 1993 or any fourth year thereafter which is a four-year increment thereof, their immediate successors shall be elected for a two-year term and all subsequent successors for a four-year term.~~

~~§ 24.2-221. Time and frequency of referenda on election and term of supervisors.—A referendum as provided in § 24.2-219 or § 24.2-220 shall be held only in the year preceding the year in which a general election for supervisors is to be held. Once a referendum on either question is held, no further referendum on either question may be held in the county for a period of four years.~~

~~Drafting Note: Existing § 24.1-88 is divided into four sections for simplicity. “Election district” is a term defined in existing § 24.1-1 to include magisterial district, and proposed § 24.2-101 uses the term “election district.” Section 15.1-571.1 authorizes counties either to elect from their magisterial districts, which then must be changed with each county redistricting, or to~~

establish separate election districts for supervisors and retain the historic magisterial districts. Numerous counties have chosen the latter option. The proposed sections drop the references to magisterial districts in favor of the inclusive "election district" to avoid confusion.

The proposed sections require the board of supervisors to act by ordinance in establishing the election methods and terms, whereas existing § 24.1-88 provides for action by resolution. The matters addressed are of sufficient scope and permanent effect on the government to require more stringent ordinance procedures, as now are required to establish other major features of the board's election. (See §§ 15.1-37.4 and 15.1-571.1, for example.)

Existing § 24.1-88 contains the language of proposed § 24.2-221 limiting the time and frequency of referenda to adopt biennial election of supervisors. Proposed § 24.2-221 extends these limits to referenda on reversion to quadrennial elections.

~~§ 24.1-90~~ 24.2-222. Election and terms of mayor and council for cities and towns.— (a) The qualified voters of each city and town of this Commonwealth shall elect a mayor, if the same be so provided for by charter, and a council, which shall be the governing body thereof, for their terms provided for by charter. Notwithstanding any other provision of law, general or special; : (i) any election of mayor or councilmen of a city or town whose charter provides for such elections at two- or four-year intervals shall take place on at the first Tuesday in May general election of an even-numbered year; In any, and (ii) any election of mayor or councilmen of a city or town whose charter provides for such elections of mayor or councilmen, at one- or three-year intervals; such elections shall take place on at the first Tuesday general election in May of the years designated by charter. Unless otherwise provided by charter, the The persons so elected shall enter upon the duties of their offices on the first day of July 1 succeeding their election, and remain in office until their successors have qualified.

(b) In any city or town in which elections are held for mayor or councilmen at two- or four-year intervals:

(1) Any mayor or councilman elected in the year 1969 or 1970 for four-year term, or the year 1971 or 1972 for a two-year term, shall hold office until his successor has qualified. His successor shall be elected on the first Tuesday in May, 1974, and unless otherwise provided by charter shall take office on the first day of July following his election.

(2) Any mayor or councilman elected in the year 1971 or 1972 for a four-year term shall hold office until his successor has qualified. His successor shall be elected on the first Tuesday in May, 1976, and unless otherwise provided by charter shall take office on the first day of July following his election.

Drafting Note: Reference to the council as the governing body is deleted because it is unnecessary and potentially confusing. Charters commonly provide that the elected mayor is a voting member of council and the mayor and council jointly constitute the governing body.

When this Title was revised in 1970, municipal elections were set for May with terms to begin July 1. The 1971 General Assembly added transition provisions to existing § 24.1-90 to effectuate the transition from June elections and September term commencement. These transition provisions no longer are necessary and are deleted from proposed § 24.2-221. Also see the Drafting Note for proposed § 24.2-200 as to deleting charter exceptions to the requirement that terms begin on July 1.

§ 24.1-90.2. [REPEALED] Extension of terms in Clifton forge in the year 1992.—In order to accommodate the referendum on consolidation currently scheduled to be held in the spring of 1992, the Circuit Court of Clifton Forge may order that the terms of the members of council of the City of Clifton forge which normally end on June 30, 1992, shall be extended to December 31, 1992, or until their successors are duly qualified. In the event the referendum shall fail, their successors shall be elected at a general election on the first Tuesday following the first Monday in November 1992, for terms beginning January 1, 1993, and ending June 30, 1996. Upon entry of said order, there shall be no general election in the city of Clifton forge on the first Tuesday in May 1992.

Drafting Note: The provisions of existing § 24.1-90.2 relating to the election of the Clifton Forge city council no longer are needed since the Clifton Forge-Alleghany County consolidation was defeated in the referendum and the city council will be elected in November 1992 pursuant to the section. The provision that terms of the council elected in November 1992 will end June 30, 1996, is continued in a separate enactment clause.

§ 24.2-223. Election and term of school board members.—In any county, city, or town wherein members of the school board are elected, pursuant to Article 7 (§ 22.1-57.1 et seq.) of Chapter 5 of Title 22.1, elections shall be held to coincide with the election of members of the governing body at the regular general election in November in a county or the regular general election in May in a city or town. Elected school board members shall serve terms which are the same as those of the governing body, to commence on January 1 following their election in a county or July 1 following their election in a city or town. In no event shall any election of school board members take place prior to 1994.

Drafting Note: The General Assembly at the 1992 Session enacted the referenced provisions of Title 22.1 authorizing elected school boards following a referendum (Chapter 594, 1992 Acts of Assembly). Title 22.1 provisions set out in detail the procedures for implementing school board elections and they are not repeated in this proposed section.

§ 24.1-74 24.2-224 . Local elections not otherwise provided for.— In case the The election to any public office required to be filled by the qualified voters of any county, city, town, or election district shall for which an election time is not be specially provided for by law ; an election to such office shall be had held at the general election held next before immediately preceding the time provided for the term of such office to commence.

Drafting Note: Changes are stylistic only. The intent of this section presumably is to specify an election time when charter, general law, or other special act has provided that a local officer shall be chosen by the voters but has failed to specify the time of election.

Article 6.

Vacancies in Elected Constitutional and Local Offices.

§ 24.2-225. Applicability.—This article applies to vacancies in any elected constitutional or local office if there is no other statutory or charter provision for filling a vacancy in the office. Further provisions within this article which specifically override other statutory or charter provisions shall prevail.

Drafting Note: Proposed § 24.2-225 is based upon the first sentence of existing § 24.1-76. Generally, the article serves as a backup provision if a vacancy occurs and no other general or special law or charter provides for filling the vacancy. In addition, the article states certain limits generally on conducting special elections to fill vacancies.

§ 24.1-76 24.2-226 Appointment to fill certain vacancies; writ of election. A. When a vacancy occurs in any elected county, city, town or district office and no other provision is made for filling the same, a majority of the circuit judges of the judicial circuit for the county or city in which it occurs shall make an interim appointment to the office until the vacancy can be filled by a special election as provided in subsection B of this section. If a majority of such judges cannot agree, then the senior judge shall make the appointment. When a vacancy occurs, if there be a deputy in the office, then the chief or senior deputy thereof shall perform all the duties of such office until the qualification of the person appointed to fill the vacancy. The person so appointed shall hold office until the qualified voters shall fill the vacancy by election and the person so elected shall have qualified.

B. When a vacancy occurs in any elected county, city, town or district office and no provision is made for filling the same for the unexpired portion of the term of office, the Election to fill vacancy.—A. A vacancy in any elected constitutional or local office, whether occurring when for any reason an officer-elect does not take office or occurring after an officer begins his term, shall be filled by special election except as provided for certain towns by § 24.2-228 or unless provided otherwise by statute or charter. The governing body of the county, city, or town in which the vacancy occurs shall, within fifteen days of the occurrence of such the vacancy, petition the circuit court to issue a writ of election to fill such the vacancy in the manner as set forth in § 24.1-163 Article 5 (§ 24.2-681 et seq.) of Chapter 6. Either upon receipt of such the petition or on its own motion, the court shall issue the writ of ordering the election. Any election ordered pursuant to this section shall be held at for the next ensuing general election to be held in the county, city or town subject, however, to the provisions of § 24.1-1 (5) (e). In the event in November in the case of county officers and city constitutional officers or in May in the case of other city and town officers. If the vacancy occurs within 120 days prior to the next such ensuing general that election, however, the writ of election shall issue for an order the election to fill the vacancy be held at the second ensuing such general

election. The person so elected shall hold the office for the ~~unexpired~~ remaining portion of the regular term of his regularly elected predecessor in office of the office for which the vacancy is being filled .

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

Ⓓ C . Notwithstanding any provision of law or charter to the contrary, when an interim appointment to a vacancy in any governing body has been made by the remaining members thereof, no election to fill the vacancy shall be ordered or held if the general election at which it is to be called is scheduled in the year in which the term expires.

Drafting Note: The provisions of existing § 24.1-76 A. for interim appointments by circuit judges are moved to proposed § 24.2-227 so that it is clear that the basic principle of this article is to fill vacancies by election. Proposed § 24.2-226 explicitly applies to all vacancies, whether arising at the commencement of a term because the officer-elect for any reason does not take office or occurring during the time an officer is holding office. The Attorney General has opined, reading an earlier version of § 24.1-76, that the section applied only to local governing body vacancies during a term because it referred to “unexpired term” while § 24.1-79 referred to the “term for which such person did not qualify.” However, proposed § 24.2-226 does not reflect a change in substance on this point because both present sections provide for a special election to fill the vacancy. Present § 24.2-79 is stricken in the proposed revision.

General law provisions found in Title 15.1 relating to municipal governing body vacancies are at variance with both existing Title 24.1 and proposed Title 24.2 on some points. See the Drafting Note for § 24.2-228 for a discussion.

§ 24.2-227. Interim appointment by court until vacancy filled by election for certain offices.—*When a vacancy occurs in any constitutional or local elected office other than a local governing body, a majority of the judges of the judicial circuit for the county or city in which it occurs shall make an interim appointment to the office until the vacancy can be filled by special election. The senior judge shall make the appointment if a majority of the judges cannot agree. The chief or senior deputy, if there is one in the office, shall perform all the duties of the office until the person appointed to fill the vacancy has qualified. The person so appointed shall hold office until the qualified voters fill the vacancy by election and the person so elected has qualified.*

Drafting Note: Proposed § 24.2-227 is based on existing subdivision A of § 24.1-76. The only significant change in language occurs in the first sentence, where all local governing bodies are excluded from the court’s power to make interim appointments to fill vacancies. This already is the case for vacancies in county governing bodies which occur during a member’s term because existing § 24.1-76.1 authorizes the governing body to make the appointment. Whether it is the case for municipal governing bodies, in the absence of specific charter provisions, depends upon whether § 24.1-76 or Title 15.1 provisions apply. Title 15.1 allows the council to fill its own vacancies for the remainder of the term. Section 24.1-76 says that the court makes an interim appointment. There is no clear reason to treat municipalities differently than counties if an interim appointment is to be made.

The predecessor section to § 24.1-79 first was enacted at a time when the predecessor to § 24.1-76 provided simply that the circuit court filled all vacancies for the unexpired term. Section 24.1-79 clearly overrode § 24.1-76, providing for a special election to fill the vacancy. (The court, “in lieu of appointing a successor for the term for which such person did not qualify,” is directed to order a special election.) This language is confusing because § 24.1-76 subsequently was amended to preclude the court from making any appointments for an entire unexpired term. It is not clear whether the controlling part of the restrictive phrase is “in lieu of appointing a successor,” or “for the term for which such person did not qualify.” If the former, the court apparently would not make an interim appointment under existing law when a member-elect of a governing body for various reasons does not take office.

Proposed § 24.2-226 also will allow the court to make interim appointments to fill vacancies occurring at any time on elected school boards until a special election can be held. The enabling legislation for elected school boards provides that vacancies are to be filled pursuant to § 24.1-76 (see § 22.1-57.3 D). It does not refer to § 24.1-76.1 or any other provision that would allow the school board or the local governing body to make the interim appointment.

§ 24.1-76.1 24.2-228 . Vacancy in Interim appointment to local governing body of counties ; elected mayor .— A. When a vacancy occurs in the a local governing body of a county , and no other provision is made for filling same, it shall be filled by the remaining members of such the body within thirty days of such vacancy. The person appointed to fill such vacancy of the office becoming vacant shall be appoint a qualified voter of the election district in which the vacancy occurred and shall hold office until the qualified voters shall fill the same by election, as hereinafter provided, and the person so elected shall have qualified to fill the vacancy . If a majority of the remaining members cannot agree, or do not act, then the judges of the circuit court of the county or city shall make the appointment in accordance with the provisions of § 24.1-76 . The person so appointed in a county or city, or a town with a population of 3,500 or more, shall hold office until the qualified voters fill the vacancy by special election pursuant to § 24.2-226 and the person so elected has qualified. The person so appointed in a town with a population of less than 3,500 shall serve for the remainder of the term and no special election shall be held.

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

Upon the occurrence of such vacancy, the judges of the circuit court of such county shall issue a writ of election to fill such vacancy in accordance with §§ 24.1-76 and 24.1-162.

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

Drafting Note: Proposed § 24.2-228 is based on existing § 24.1-76.1 provisions for counties and makes no substantive change with regard to the governing body's authority to make an interim appointment when a vacancy occurs during a member's term in office. The proposed section would expand the governing body's interim appointment power to include vacancies arising when a member-elect did not qualify. The Attorney General has taken the position that § 24.1-76.1 is applicable only when "no other provision is made for filling" a vacancy. Since present § 24.1-79 does provide for filling a specific type of vacancy, § 24.1-76.1 apparently would not apply.

When § 24.1-79 was enacted there were no provisions restricting the time for holding special elections to fill local vacancies and the duration of a vacancy would have been short. The effect of later changes restricting such special elections to the days on which general elections are conducted potentially is to leave a governing body seat vacant for up to almost a full year. The recommendation is that this situation be corrected as in the proposed section, by allowing the governing body to fill the vacancy temporarily.

Vacancies in municipal governing bodies generally are filled according to individual charter provisions, which vary significantly. Some adhere to the pattern found in Title 15.1, that council fills its own vacancies for unexpired terms. Others reflect the general principle found in proposed Article 6 and call for a special election to fill the unexpired term. Many make no specific provision for a vacancy arising when a council member-elect does not take office.

There are general law provisions in Title 15.1 which apply to city and town governing bodies. Section 15.1-933 provides simply that any vacancy is filled by the remaining members of the council for the unexpired term. This section applies to any town or city or less than 50,000 which has adopted one of the three optional plans of municipal government - general councilmanic, modified commission, or manager - first provided by general law in 1916. Still older provisions in § 15.1-808 (cities) and § 15.1-830 (towns) embody the same rule with some exceptions for special situations. (If a majority of seats are vacant, the court fills vacancies for the unexpired term in towns but only until a special election can be held in cities. In towns, if a member is disqualified or expelled by the remaining members of council, a special election fills the vacancy.) Council can fill a vacancy in the office of mayor in a town but a special election is held in a city.

Opinions by the Attorney General usually, but not always, have applied § 24.1-76 rather than Title 15.1 provisions to municipal governing body vacancies in the absence of charter provisions. No court apparently has addressed the issue directly. The recommendation in proposed § 24.2-228 is that municipal vacancies be treated the same as county vacancies, absent specific charter provisions to the contrary, and that both types of local government be placed on the same footing. The referenced sections of Title 15.1 should be amended to track proposed Title 24.2 provisions to eliminate confusion.

An exception to this general principle is proposed for towns of less than 3,500 population. Finding candidates to run for office is difficult in many of these small towns, the special

election is an additional expense, and governmental functions are limited. For these practical reasons it is recommended that the remaining members of council fill vacancies for the unexpired term.

The final sentence of subsection A of proposed § 24.2-228 is based on provisions presently in Title 15.1 for cities and towns. Existing sections in Title 24.1 for counties do not distinguish the situation of a simple vacancy from that of vacancies in a majority of the seats on the governing body.

~~§ 24.1-77 24.2-229 . Appointees to qualify and give bond in thirty days.—All officers appointed under § 24.1-76 to fill vacancies shall ; within thirty days after their appointment, qualify and give bond, if bond be is required, within thirty days after their appointment before any judge of the circuit court making the appointment or before the clerk of the court having authority to make such appointment, in like manner as is provided by in § § 15.1-38 and 15.1-39 for the qualification of such officers when elected by the people ; and if he qualify before the judge in vacation, the judge shall certify the fact, and the certificate and bond shall be returned and recorded as provided by law .~~

Drafting Note: The deleted language repeats provisions in §§ 15.1-38 and 15.1-39 and therefore is unnecessary.

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

Drafting Note: Existing § 24.1-79 is stricken because its provisions are either obsolete, create excessive delay in filling vacancies, or, where appropriate, have been incorporated into proposed § 24.2-226. Section 12 of Article VI of the 1971 Constitution of Virginia removed the power of judges to fill vacancies for a full term, thereby accomplishing the basic intent of present § 24.1-79.

Article 7.

Removal of Public Officers from Office.

~~§ 24.1-70.1 24.2-230 . Applicability of article ; certain exceptions .—This article shall be applicable apply to all state, county, city, town and district elected or appointed Commonwealth, constitutional, and local officers ; elected or appointed , except such officers for whose removal from office is specifically provided for in the Constitution of Virginia specifically provides and requires any such removal shall be only in accordance with the provisions of the Constitution .~~

~~§ 24.1-70.2. Further exception to article.—Notwithstanding § 24.1-70.1 However , an appointed officer ; except an officer appointed to fill a vacancy in an elective office or appointed to an office for a term established by law and the appointing person or authority is not given the unqualified power of removal. shall be removed from his office only by the person or authority who appointed him unless such officer be he is sentenced for a crime as provided for in § 24.1-70.3 24.2-231 or is determined to be mentally incompetent as provided for in § 24.1-70.4 24.2-232 . This exception shall not apply to an officer who is (i) appointed to fill a vacancy in an elective office or (ii) appointed to an office for a term established by law and the appointing person or authority is not given the unqualified power of removal.~~

Drafting Note: Proposed § 24.2-230 combines existing § 24.1-79.1 and § 24.1-79.2, both of which relate to the applicability of the removal provisions. The changes are clarifying and stylistic, and make no substantial change in the applicability of the provisions. The last clause of the first paragraph of present § 24.1-79.1, while grammatically vague, apparently is a redundant statement that this article does not apply to officers whose removal is specifically provided in the Constitution.

~~§ 24.1-70.3 24.2-231 . Forfeiture of office by person sentenced for commission of certain crimes.—Any person holding any public office of honor, profit, or trust in this Commonwealth who may be is convicted for commission of a felony by the courts of this Commonwealth and~~

for whom all rights of appeal have terminated, shall by such final conviction forfeit his office or post and be thereafter incapable of acting may not act therein under his previous election or appointment ; and though a . A pardon which may be afterwards granted him ; such pardon shall not void the forfeiture.

Drafting Note: The basis for this section is Article II, Section 5, of the Constitution of Virginia, which provides that a person must be qualified to vote for an office in order to hold the office. Under Section 1 of the same article, a person loses the right to be a qualified voter upon conviction of a felony. However, the Constitution does not limit the felony conviction to one by the courts of the Commonwealth and that restrictive language is deleted in proposed § 24.2-231.

~~§ 24.1-70.4~~ 24.2-232 . Vacancy occurring when officer determined mentally incompetent.—~~Whenever The office of any officer, whether his office be executive, judicial, administrative, elective or appointive, shall person who is determined to be mentally incompetent in a judicial proceeding as provided for in § 37.1-128.01 et seq., be determined to be mentally incompetent the office held by him shall become vacant ; and any the vacancy occurring by reason thereof shall be filled in the manner provided by law for filling vacancies in such offices . Provided, however, notwithstanding Notwithstanding the provisions of § 37.1-128.01 et seq., however, any officer shall have a jury trial unless it is waived by him or for him by his counsel of record.~~

Drafting Note: No change in substance.

~~§ 24.1-70.5~~ 24.2-233 . Removal of elected and certain appointed officers by courts.—Upon a petition, filed with a circuit court ; such court may remove from office any state, county, city, town and district officers who are elected officer or officer who have been appointed to fill an elective office, when such officer resides residing within the jurisdiction of the court and ~~§§ 24.1-70.2, 24.1-70.3 and 24.1-70.4 are not applicable to such officer :~~

1. For ~~incompetency~~, neglect of duty or , misuse of office , or *incompetence in the performance of duties* when such that ~~incompetency~~, neglect of duty or , misuse of office , or *incompetence in the performance of duties* has a material adverse effect upon the conduct of such the office, or

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

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

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

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

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

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

Any person removed from office under the provisions of subdivision 2 or 3 may not be subsequently subject to the provisions of this section for the same criminal offense.

Drafting Note: Clarifying changes only. The term “incompetency” in subdivision 1 is spelled out as *incompetence in the performance of duties* to distinguish it from “mental incompetence,” which would be addressed through proposed § 24.2-232.

~~§ 24.1-70.6~~ 24.2-234 . Removal of officer appointed for a term certain.—Any officer appointed to an office for a term established by law may be removed from such office, under the

provisions of ~~§ 24.1-70.5~~ 24.2-233 , upon a petition filed with the circuit court in whose jurisdiction the officer resides signed by the person or a majority of the members of the authority who appointed him , if ~~such~~ the appointing person or authority is not given the unqualified power of removal. *In the case of a member of a county or city electoral board, the circuit court also shall proceed for removal of a member pursuant to § 24.2-235 upon a petition signed by a majority of the members of the State Board of Elections.*

Drafting Note: Existing § 24.1-19 (proposed § 24.2-102) authorizes the State Board of Elections to "institute proceedings" for the removal of electoral board members but fails to specify the nature of the proceedings. The last sentence of proposed § 24.2-234 makes clear that the Board can initiate such removal by petitioning the circuit court, which is the appointing authority for electoral boards. The State Board also is generally better positioned to monitor the performance of electoral board members and hence more likely to be aware of the need to remove a member.

~~§ 24.1-70.7~~ 24.2-235 . Procedure.— ~~Such petitions, as provided for in §§ 24.1-70.5 and 24.1-70.6; A petition for the removal of an officer shall state with reasonable accuracy and detail the grounds or reasons for removal of the officer against whom the petition is filed and shall be signed by the person or persons making it under penalties of perjury. As soon as the petition is filed with the court, the court shall forthwith cause issue a rule to be issued, requiring the officer complained of to show cause ; if he can, why he should not be removed from office, the rule alleging in general terms the cause or causes for such removal. The rule shall be returnable in not less than five nor more than ten days and shall be served upon the officer with a copy of the petition. Upon return of the rule duly executed, unless good cause shall be shown for a continuance or postponement to a later day in the term, the case shall be tried on the day named in the rule ; taking and take precedence over all other cases on the docket. If upon such trial it shall appear is determined that the officer is subject to removal under the provisions of § 24.1-70.6 24.2-233 , he shall be removed from office. Any such officer proceeded against shall have the right to demand a trial by jury.~~

Drafting Note: The right to trial by jury already is found in existing § 24.1-79.9 (proposed § 24.2-237). Other changes are stylistic.

~~§ 24.1-70.8~~ 24.2-236 . Suspension from office pending hearing and appeal.—~~In the event of a judicial proceeding under §§ 24.1-70.3, 24.1-70.4, 24.1-70.5 and 24.1-70.6 24.2-231, 24.2-232, 24.2-233, or 24.2-234, the circuit court may ; by order entered of record, suspend such enter an order suspending the officer pending the hearing ; which suspension may, in the discretion of the court, be continued in effect . The court may, in its discretion, continue the suspension until the matter is finally disposed of in the Supreme Court or otherwise. During the suspension of any such officer the court may appoint some suitable person to act in his the officer's place. During such period of suspension the The officer's compensation of such officer shall be withheld and kept in a separate account and paid such officer to him if and when such the judicial proceedings result in his favor ; otherwise . Otherwise, it shall be paid back to the county, city, town or State Treasurer paying the same who paid it .~~

Drafting Note: No change in substance.

~~§ 24.1-70.9~~ 24.2-237 . Who to represent Commonwealth; trial by jury; appeal.— ~~In any trial under this article the The attorney for the Commonwealth shall represent the Commonwealth in any trial under this article . If the proceeding is against the attorney for the Commonwealth , then the court shall appoint some an attorney to represent the Commonwealth. Any such officer proceeded against shall have the right to demand a trial by jury. The Commonwealth and the defendant shall both each have the right to apply to the Supreme Court for a writ of error and supersedeas upon the record made in the trial court and the Supreme Court may hear and determine such cases.~~

Drafting Note: Stylistic changes only.

~~§ 24.1-70.10~~ 24.2-238 . Costs may be allowed.— ~~Whenever If a judicial proceeding as provided for in under this article is dismissed in favor of the respondent, the court may, in its discretion ; may require that court costs or reasonable attorney fees for the respondent or both such costs and fees be paid by the state agency or political subdivision which the respondent serves to pay court costs or reasonable attorney fees, or both, for the respondent .~~

Drafting Note: No change in substance.

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

~~The electors named in any petition of qualified voters as provided in § 24.1-150 shall be expected to vote in the Electoral College for President and for Vice President for such persons as may be named in the said petition.~~

Drafting Note: The provisions in this section are transferred to proposed § 24.2-203 with the provisions covering the composition and duties of the Electoral College.

CHAPTER 3.

ELECTION DISTRICTS, PRECINCTS, AND POLLING PLACES.

Chapter Drafting Note: Proposed Chapter 3 combines in one chapter provisions now found in six chapters of the present title. This proposed chapter covers the Joint Reapportionment Committee, the current congressional and General Assembly districts, the state law requirements for local election districts, precincts, and polling places, and the effective dates of redistricting measures. The geography of elections — the districts, precincts, and polling places — is the topic of proposed Chapter 3.

In proposed Article 1, the provisions on the Joint Reapportionment Committee are carried forward with the incorporation of a special act of the 1991 Acts of Assembly (Special Session I). That act requires the Division of Legislative Services to maintain a description of congressional and General Assembly district boundaries by reference to permanent features such as roads and county or city boundaries. The "metes and bounds" description is useful throughout the 1990s in contrast to the 1991 and 1992 redistricting acts which described the districts in terms of pre-1991 local precincts.

Proposed Article 2 sets out the congressional and General Assembly districts in three sections (congressional, senatorial, and House of Delegates districts). There is no change made in any district boundary in the recodification. The descriptions are simplified and set out in terms of whole localities and parts of localities. The references to the pre-1991 precincts are deleted because they are now obsolete and confusing. If a district consists of only a part of a locality or contains part of one or more localities, the part is described by reference to the statistical report on file with the Clerk of the Senate or House of Delegates in the same way that parts of precincts are described by reference to those identical statistical reports under current law.

The requirements for local election districts, precincts, and polling places are set out in proposed Article 3. One significant change addresses an inconsistency in present law which allows the polling place for a precinct to be located outside of the precinct if it is within 300 yards of the precinct boundary in some cases or 1,000 yards in other cases. The Commission recommends a uniform 1,000-yard leeway in all cases. This leeway will give localities more flexibility to find accessible and convenient polling places. Requirements that polling places be accessible to disabled, handicapped, and elderly voters are found in federal and state law, including the new Americans with Disabilities Act. The requirement for accessibility is redefined to provide for State Board guidance to the localities on compliance with changing state and federal requirements.

Article 1.

Joint Reapportionment Committee.

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

Drafting Note: No change in substance. The 1992 General Assembly continued the Committee and revised this provision to apply to future decennial redistrictings.

~~§ 24.1-40.11.~~ 24.2-301 . Staff to Joint Reapportionment Committee; census liaison.— A. The Division of Legislative Services shall serve as staff to the Joint Reapportionment Committee. The Director of the Division, or his designated representative, shall serve as state liaison with the United States Bureau of the Census on matters relating to the tabulation of the population for reapportionment purposes pursuant to United States Public Law 94-171. The governing bodies, electoral boards, and registrars of every county and municipality shall cooperate with the Division of Legislative Services in the exchange of all statistical and other information pertinent to preparation for the census.

~~§ 24.1-40.7:1. Division of Legislative Services to maintain certain information.~~ B. The Division of Legislative Services shall maintain the current election district and precinct boundaries of each county and city as a part of the General Assembly's computer-assisted mapping and redistricting system. Whenever a county or city governing body adopts an ordinance ~~or resolution~~ which changes an election district or precinct boundary, the local governing body shall provide a copy of ~~such its ordinance or resolution~~ , along with maps and other evidence documenting the boundary, to the Division of Legislative Services .

C. *The Division shall prepare and maintain a written description of the boundaries for the congressional, senatorial, and House of Delegates districts set out in Article 2 of this chapter. The descriptions shall identify each district boundary, in so far as practicable, by reference to political subdivision boundaries or to physical features such as named roads and streets. The Division shall furnish to each general registrar the descriptions for the districts dividing his county or city. The provisions of Article 2, including the statistical reports referred to in Article 2, shall be controlling in any legal determination of a district boundary.*

Drafting Note: This proposed section combines two existing, related provisions, §§ 24.1-40.11 and 24.1-40.7:1. It spells out the Division of Legislative Services' role as staff to the Committee and its responsibilities to serve as liaison to the Census Bureau and to maintain files of local election and precinct information for state redistricting purposes. Subsections A (§ 24.1-40.11) and B (§ 24.1-40.7:1) restate the existing law without any change in substance. The references to "resolution" are stricken since redistrictings and precinct revisions are required to be enacted by ordinance. See proposed §§ 24.2-307 and 24.2-308.

Subsection C incorporates the substance of Ch. 10, 1991 Acts of Assembly (Special Session I), which then may be repealed. This subsection requires a separate "metes and bounds" description of the districts which will be useful throughout the 1990s regardless of local precinct revisions. Subsection C includes congressional districts as well as the state legislative districts referred to by the 1991 Act. A provision is added to require the Division to furnish descriptions of districts to each general registrar for the districts dividing his county or city. Neither Title 24.1 nor proposed Title 24.2 contains a physical description of district boundaries, and this requirement provides a link from the state to the local level so that descriptions will be available at the local level. The provision codifies present practices and tells a person reading Chapter 1 of Title 24.2 that his local registrar has this information.

Article 2.

Congressional, Senatorial, and House of Delegates Districts.

~~§ 24.1-17.300.~~ 24.2-302 . Congressional districts.— A. There shall be eleven Virginia members of the United States House of Representatives elected from eleven congressional districts and each district is entitled to representation by one representative.

B. *The eleven congressional districts are:*

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

Second. Part of the Cities of Norfolk and Virginia Beach.

Third. All of Charles City, Essex, King and Queen, King William, New Kent, Richmond, and Surry Counties; part of Henrico, James City, and Prince George Counties; and part of the Cities

of Hampton, Hopewell, Newport News, Norfolk, Petersburg, Portsmouth, Richmond, and Suffolk.

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

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

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

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

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

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

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

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

§—24.1-17.312: Boundaries of political subdivisions and precincts. C. All references to boundaries of political subdivisions and precincts counties and cities shall be interpreted to refer to those in existence on April 1, 1991, and as reported by the United States Bureau of the Census in the 1990 census reports provided pursuant to P.L. United States Public Law 94-171, notwithstanding subsequent boundary changes by law, annexation, merger, consolidation, or the voiding of boundary changes therefore made final.

§—24.1-17.313: Parts of precincts.—Parts of precincts listed in this chapter are described by reference to United States Census blocks as contained in the Statistical Report (C0786555) for Chapter 1.3 (§§ 24.1-17.300 et seq.) of this title filed with the Clerk of the Senate of Virginia to implement the provisions of this chapter. However, D. Parts of counties and cities listed in subsection B are defined by reference to the United States 1990 Census precincts, parts of precincts, and blocks listed for each congressional district in the Statistical Report (C0786555) on file with the Clerk of the Senate of Virginia pursuant to Chapter 874 of the 1992 Acts of Assembly. Notwithstanding the Statistical Report (C0786555), that part of Timberville Precinct of Rockingham County included in the Sixth District shall be only that part of the 1990 census precinct situated within the corporate limits of the Town of Broadway as of January 1, 1992. That part of Timberville Precinct not within such 1992 corporate limits shall be included in the Tenth District.

Drafting Note: No change in substance or districts. This proposed section unites the eleven congressional districts in one section and replaces existing §§ 24.1-17.300 through 24.1-17.313. Proposed § 24.2-302 describes the districts more briefly in terms of the whole localities and the parts of localities comprising the districts. The eleven sections now carried in Title 24.1 describe parts of localities by reference to precincts as they appear on the 1990 census maps and are listed in the redistricting reports for the 1990 census issued under Public Law 94-171. The precinct names used in those sections are now out-of-date and misleading because almost all localities revised their precincts in 1991 and 1992 as part of their local redistricting and precinct review process.

Subsection D of proposed § 24.2-302 continues in effect the reference to the detailed computer report (C0786555) for the current congressional districts on file with the Clerk of the Senate pursuant to Chapter 874 of the 1992 Acts of Assembly. The computer report describes each part of a locality in each district by census precinct and block lists and accounts for all territory in each district.

§§ 24.1-17.301 through 24.1-17.311. [Congressional districts.] See proposed § 24.2-302 B.

Drafting Note: These sections carry the descriptions for the eleven congressional districts. Subsection B of proposed § 24.2-302 replaces these eleven sections.

The text of these sections is not set out and stricken in this report due to the length of the text. The text is printed in the 1992 Cumulative Supplement to Volume 5 of the Code.

§ 24.1-17.314. [REPEALED] Severability.—If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect the other provisions or applications of this chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this chapter are severable.

Drafting Note: Existing § 24.1-17.314 is repealed as unnecessary because it duplicates the severability provision in § 1-17.1. In accordance with Code Commission policy this severability clause has not been set out in the Code. The repeal of this provision does not effect any change because the comparable severability provision in § 1-17.1 continues to apply to each provision and application of proposed § 24.2-302.

§ 24.1-17.4 24.2-303 . Senatorial Districts districts .— A. There shall be forty members of the Senate of Virginia elected from forty senatorial districts and each district is entitled to representation by one senator.

B. The forty senatorial districts are:

First. All of the City of Poquoson; part of York County; and part of the Cities of Hampton and Newport News.

Second. Part of the Cities of Hampton and Newport News.

Third. All of Accomack, James City, and Northampton Counties; all of the City of Williamsburg; part of Gloucester and York Counties; and part of the City of Newport News.

Fourth. All of Caroline, Essex, Hanover, King and Queen, King William, Mathews, Middlesex, New Kent, and Richmond Counties; and part of Gloucester County.

Fifth. Part of the Cities of Chesapeake and Norfolk.

Sixth. Part of the Cities of Norfolk and Virginia Beach.

Seventh. Part of the City of Virginia Beach.

Eighth. Part of the City of Virginia Beach.

Ninth. Part of Henrico County; and part of the City of Richmond.

Tenth. All of Powhatan County; part of Chesterfield and Henrico Counties; and part of the City of Richmond.

Eleventh. All of Amelia County; all of the City of Colonial Heights; and part of Chesterfield and Dinwiddie Counties.

Twelfth. Part of Goochland and Henrico Counties.

Thirteenth. All of Surry County; part of Isle of Wight and Prince George Counties; and part of the Cities of Chesapeake, Hopewell, Portsmouth, and Suffolk.

Fourteenth. Part of the Cities of Chesapeake and Virginia Beach.

Fifteenth. All of Appomattox, Charlotte, Lunenburg, Nottoway, Prince Edward, and Sussex Counties; part of Dinwiddie, Greensville, Isle of Wight, Mecklenburg, Prince George, and Southampton Counties; and part of the Cities of Emporia, Franklin, and Suffolk.

Sixteenth. All of Charles City County; all of the City of Petersburg; part of Chesterfield, Dinwiddie, Henrico, and Prince George Counties; and part of the Cities of Hopewell and Richmond.

Seventeenth. All of Buckingham, Cumberland, Fluvanna, Louisa, and Spotsylvania Counties; all of the City of Fredericksburg; and part of Goochland and Orange Counties.

Eighteenth. All of Brunswick and Halifax Counties; all of the City of South Boston; part of Greenville, Isle of Wight, Mecklenburg, and Southampton Counties; and part of the Cities of Chesapeake, Emporia, Franklin, Portsmouth, and Suffolk.

Nineteenth. All of Pittsylvania County; all of the City of Danville; and part of Campbell County.

Twentieth. All of Floyd, Franklin, Henry, and Patrick Counties; all of the City of Martinsville; and part of Carroll County.

Twenty-first. All of the City of Roanoke; and part of Roanoke County.

Twenty-second. All of Alleghany, Bath, Botetourt, Craig, and Giles Counties; all of the Cities of Clifton Forge, Covington, Radford, and Salem; and part of Pulaski and Roanoke Counties.

Twenty-third. All of Amherst and Bedford Counties; all of the Cities of Bedford and Lynchburg; and part of Campbell County.

Twenty-fourth. All of Augusta, Highland, and Rockbridge Counties; all of the Cities of Buena Vista, Lexington, Staunton, and Waynesboro; and part of Rockingham County.

Twenty-fifth. All of Albemarle, Greene, Madison, and Nelson Counties; all of the City of Charlottesville; and part of Orange and Rappahannock Counties.

Twenty-sixth. All of Culpeper and Page Counties; all of the City of Harrisonburg; and part of Fauquier, Rappahannock, Rockingham, and Stafford Counties.

Twenty-seventh. All of Clarke, Frederick, Shenandoah, and Warren Counties; all of the City of Winchester; and part of Fauquier County.

Twenty-eighth. All of King George, Lancaster, Northumberland, and Westmoreland Counties; and part of Prince William and Stafford Counties.

Twenty-ninth. All of the Cities of Manassas and Manassas Park; and part of Prince William County.

Thirtieth. All of the City of Alexandria; and part of Arlington and Fairfax Counties.

Thirty-first. All of the City of Falls Church; and part of Arlington County.

Thirty-second. Part of Arlington and Fairfax Counties.

Thirty-third. All of Loudoun County; and part of Fairfax County.

Thirty-fourth. Part of Fairfax County; and part of the City of Fairfax.

Thirty-fifth. Part of Fairfax County.

Thirty-sixth. Part of Fairfax County.

Thirty-seventh. Part of Fairfax and Prince William Counties; and part of the City of Fairfax.

Thirty-eighth. All of Bland, Buchanan, Russell, Tazewell, and Wythe Counties; and part of Washington County.

Thirty-ninth. All of Grayson, Montgomery, and Smyth Counties; all of the City of Galax; and part of Carroll and Pulaski Counties.

Fortieth. All of Dickenson, Lee, Scott, and Wise Counties; all of the Cities of Bristol and Norton; and part of Washington County.

~~§—24.1-17.46. Boundaries of political subdivisions and precincts.—~~ C. All references to boundaries of political subdivisions and precincts counties and cities shall be interpreted to refer to those in existence on April 1, 1991, and as reported by the United States Bureau of the Census in the 1990 census reports provided pursuant to P.L. United States Public Law 94-171,

notwithstanding subsequent boundary changes by law, annexation, merger, consolidation, or the voiding of boundary changes theretofore made final.

~~§ 24.1-17.46. Parts of precincts.—Parts of precincts listed in this chapter are described by reference to United States Census blocks as contained in the Statistical Report for Senate Bill Number 1510 on file with the Clerk of the Senate of Virginia. D. Parts of counties and cities listed in subsection B are defined by reference to the United States 1990 Census precincts, part of precincts, and blocks listed for each senatorial district in the Statistical Report (S0441721) on file with the Clerk of the Senate pursuant to Chapter 18 of the 1991 Acts of Assembly, Special Session I.~~

Drafting Note: No change in substance or districts. This proposed section unites the forty senatorial districts in one section and replaces existing §§ 24.1-17.4 through 24.1-17.46. Proposed § 24.2-303 describes the districts more briefly in terms of the whole localities and the parts of localities comprising the districts. The forty sections now carried in Title 24.1 describe parts of localities by reference to precincts as they appear on the 1990 census maps and are listed in the redistricting reports for the 1990 census issued under Public Law 94-171. The precinct names used in those sections are now out-of-date and misleading because almost all localities revised their precincts in 1991 and 1992 as part of their local redistricting and precinct review process.

Subsection D of proposed § 24.2-303 continues in effect the reference to the detailed computer report (S0441721) for the current senatorial districts filed with the Clerk of the Senate pursuant to Chapter 18 of the 1991 Acts of Assembly, Special Session I. The computer report describes each part of a locality in each district by census precinct and block lists and accounts for all territory in each district.

§§ 24.1-17.5 through 24.1-17.44. [Senatorial districts.] See proposed § 24.1-303 B.

Drafting Note: These sections carry the descriptions for the forty senatorial districts. Subsection B of proposed § 24.2-303 replaces these 40 sections.

The text of these sections is not set out and stricken in this report due to the length of the text. The text is printed in the 1992 Cumulative Supplement to Volume 5 of the Code.

~~§ 24.1-17.47. [REPEALED] Severability.—If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect the other provisions or applications of this chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this chapter are severable.~~

Drafting Note: Existing § 24.1-17.47 is repealed as unnecessary because it duplicates the severability provision in § 1-17.1. In accordance with Code Commission policy this severability clause has not been set out in the Code. The repeal of this provision does not effect any change because the comparable severability provision in § 1-17.1 continues to apply to each provision and application of proposed § 24.2-303.

~~§ 24.1-17.100~~ 24.2-304 . House of Delegates districts .— A. There shall be 100 members of the House of Delegates elected from 100 House Districts districts and each district is entitled to representation by one delegate.

B. The 100 House of Delegates districts are:

First. All of Lee and Scott Counties; and part of Wise County.

Second. All of Dickenson County; all of the City of Norton; and part of Russell and Wise Counties.

Third. All of Buchanan County; and part of Russell and Tazewell Counties.

Fourth. All of Washington County; and all of the City of Bristol.

Fifth. All of Smyth County; and part of Grayson and Tazewell Counties.

Sixth. All of Bland and Wythe Counties; all of the City of Galax; and part of Carroll and Grayson Counties.

Seventh. All of Pulaski County; all of the City of Radford; and part of Giles County.

- Eighth. All of the City of Salem; and part of Montgomery and Roanoke Counties.*
- Ninth. All of Floyd County; and part of Bedford, Franklin, and Pittsylvania Counties.*
- Tenth. All of Patrick County; and part of Carroll, Henry, and Pittsylvania Counties.*
- Eleventh. All of the City of Martinsville; and part of Franklin, Henry, and Pittsylvania Counties.*
- Twelfth. Part of Giles and Montgomery Counties.*
- Thirteenth. Part of Prince William County.*
- Fourteenth. All of Craig County; and part of Bedford, Botetout, and Roanoke Counties.*
- Fifteenth. All of Page County; and part of Frederick, Rockingham, Shenandoah, and Warren Counties.*
- Sixteenth. Part of Roanoke County; and part of the City of Roanoke.*
- Seventeenth. Part of Roanoke County; and part of the City of Roanoke.*
- Eighteenth. All of Alleghany, Bath, and Highland Counties; all of the Cities of Clifton Forge, Covington, and Lexington; and part of Augusta, Botetourt, and Rockbridge Counties.*
- Nineteenth. All of the Cities of Bedford and Buena Vista; and part of Bedford, Botetourt, and Rockbridge Counties.*
- Twentieth. All of the City of Danville; and part of Pittsylvania County.*
- Twenty-first. Part of the City of Virginia Beach.*
- Twenty-second. Part of Campbell and Pittsylvania Counties; and part of the City of Lynchburg.*
- Twenty-third. Part of Amherst County; and part of the City of Lynchburg.*
- Twenty-fourth. All of the City of Staunton; and part of Amherst, Augusta, and Rockbridge Counties.*
- Twenty-fifth. All of the City of Waynesboro; and part of Augusta and Rockingham Counties.*
- Twenty-sixth. All of the City of Harrisonburg; and part of Rockingham and Shenandoah Counties.*
- Twenty-seventh. Part of Chesterfield County.*
- Twenty-eighth. All of Stafford County.*
- Twenty-ninth. All of the City of Winchester; and part of Frederick County.*
- Thirtieth. All of Culpeper, Madison, and Orange Counties; and part of Greene County.*
- Thirty-first. All of Rappahannock County; and part of Fauquier and Warren Counties.*
- Thirty-second. Part of Fairfax and Loudoun Counties.*
- Thirty-third. All of Clarke County; and part of Fairfax, Fauquier, and Loudoun Counties.*
- Thirty-fourth. Part of Fairfax County.*
- Thirty-fifth. Part of Fairfax County; and part of the City of Fairfax.*
- Thirty-sixth. Part of Fairfax County.*
- Thirty-seventh. Part of Fairfax County; and part of the City of Fairfax.*
- Thirty-eighth. All of the City of Falls Church; and part of Fairfax County.*

Thirty-ninth. Part of Fairfax County.

Fortieth. Part of Fairfax County.

Forty-first. Part of Fairfax County.

Forty-second. Part of Fairfax County.

Forty-third. Part of Fairfax County.

Forty-fourth. Part of Fairfax County.

Forty-fifth. Part of Fairfax County; and part of the City of Alexandria.

Forty-sixth. Part of the City of Alexandria.

Forty-seventh. Part of Arlington and Fairfax Counties.

Forty-eighth. Part of Arlington and Fairfax Counties.

Forty-ninth. Part of Arlington County.

Fiftieth. All of the Cities of Manassas and Manassas Park; and part of Prince William County.

Fifty-first. Part of Prince William County.

Fifty-second. Part of Prince William County.

Fifty-third. Part of Fairfax County.

Fifty-fourth. All of the City of Fredericksburg; and part of Spotsylvania County.

Fifty-fifth. All of Hanover County.

Fifty-sixth. All of Fluvanna, Goochland, and Louisa Counties; and part of Spotsylvania County.

Fifty-seventh. All of the City of Charlottesville; and part of Albemarle County.

Fifty-eighth. Part of Albemarle, Green, and Rockingham Counties.

Fifty-ninth. All of Appomattox, Buckingham, Cumberland, and Nelson Counties; and part of Prince Edward County.

Sixtieth. All of Charlotte and Halifax Counties; all of the City of South Boston; and part of Campbell and Pittsylvania Counties.

Sixty-first. All of Mecklenburg County; and parts of Amelia, Brunswick, Lunenburg, Nottoway, and Prince Edward Counties.

Sixty-second. All of the City of Hopewell; and part of Amelia, Chesterfield, Dinwiddie, Nottoway, Powhatan, and Prince George Counties.

Sixty-third. All of the City of Petersburg; and part of Chesterfield and Dinwiddie Counties.

Sixty-fourth. Part of Charles City, Henrico, Isle of Wight, Prince George, Southampton, and Surry Counties; and part of the Cities of Franklin and Newport News.

Sixty-fifth. Part of Chesterfield and Powhatan Counties.

Sixty-sixth. All of the City of Colonial Heights; and part of Chesterfield County.

Sixty-seventh. Part of Fairfax County.

Sixty-eighth. Part of Henrico County; and part of the City of Richmond.

Sixty-ninth. Part of the City of Richmond.

Seventieth. Part of Henrico County; and part of the City of Richmond.

Seventy-first. Part of Henrico County; and part of the City of Richmond.

Seventy-second. Part of Chesterfield and Henrico Counties.

Seventy-third. Part of Henrico County; and part of the City of Richmond.

Seventy-fourth. Part of Charles City and Henrico Counties; and part of the City of Richmond.

Seventy-fifth. All of Greensville and Sussex Counties; all of the City of Emporia; part of Brunswick, Dinwiddie, Isle of Wight, Lunenburg, Southampton, and Surry Counties; and part of the City of Franklin.

Seventy-sixth. Part of Isle of Wight County; and part of the Cities of Chesapeake and Suffolk.

Seventy-seventh. Part of the Cities of Chesapeake and Suffolk.

Seventy-eighth. Part of the City of Chesapeake.

Seventy-ninth. Part of the Cities of Chesapeake, Portsmouth, and Suffolk.

Eightieth. Part of the Cities of Chesapeake and Portsmouth.

Eighty-first. Part of the City of Virginia Beach.

Eighty-second. Part of the City of Virginia Beach.

Eighty-third. Part of the City of Virginia Beach.

Eighty-fourth. Part of the City of Virginia Beach.

Eighty-fifth. Part of the City of Virginia Beach.

Eighty-sixth. Part of the City of Norfolk.

Eighty-seventh. Part of the Cities of Norfolk and Virginia Beach.

Eighty-eighth. Part of the City of Norfolk.

Eighty-ninth. Part of the Cities of Chesapeake and Norfolk.

Ninetieth. Part of the Cities of Chesapeake, Norfolk, and Virginia Beach.

Ninety-first. Part of the Cities of Hampton and Poquoson.

Ninety-second. Part of the City of Hampton.

Ninety-third. Part of the City of Newport News.

Ninety-fourth. Part of the City of Newport News.

Ninety-fifth. Part of the Cities of Hampton and Newport News.

Ninety-sixth. All of King and Queen and King William Counties; and part of Gloucester and York Counties.

Ninety-seventh. All of James City and New Kent Counties; all of the City of Williamsburg; and part of Henrico County.

Ninety-eighth. All of Caroline and Middlesex Counties; part of Essex, Gloucester, and York Counties; and part of the City of Poquoson.

Ninety-ninth. All of King George, Lancaster, Northumberland, Richmond, and Westmoreland Counties; and part of Essex County.

One hundredth. All of Accomack, Matthews, and Northampton Counties; and part of Gloucester County.

~~§ 24.1-17.201. Boundaries of political subdivisions and precincts. C. All references to boundaries of political subdivisions and precincts counties and cities shall be interpreted to refer to those in existence on April 1, 1991, and as reported by the United States Bureau of the Census in the 1990 census reports provided pursuant to P.L. United States Public Law 94-171, notwithstanding subsequent boundary changes by law, annexation, merger, consolidation, or the voiding of boundary changes theretofore made final. References to precincts in Pittsylvania County shall be interpreted by reference to the map and documentation entitled "Pittsylvania Precinct Report, April 1991," on file with the Clerk of the House of Delegates:~~

~~§ 24.1-17.202. Parts of precincts. Parts of precincts listed in this chapter are described by reference to United States Bureau of the Census blocks as contained in the Statistical Report (Number H0777750) for Chapter 1-2 of Title 24.1 of the Code of Virginia, on file with the Clerk of the House of Delegates to implement the provisions of this chapter. However, all references D. Parts of counties and cities listed in subsection B are defined by reference to the United States 1990 census precincts, parts of precincts, and blocks listed for each House of Delegates district in the Statistical Report (H0777750) on file with the Clerk of the House of Delegates pursuant to Chapter 813 of the 1992 Acts of Assembly. References to precincts in Pittsylvania County shall be interpreted by reference to the map and documentation entitled "Pittsylvania Precinct Report, April 1991" on file with the Clerk of the House of Delegates. References to the City of Fairfax and to precincts within the city shall be to the city and its precincts in effect on January 1, 1992; and all references to the Blake, Mosby, and Villa Precincts of Fairfax County shall be to such 1990 census precincts excluding any part of the City of Fairfax as it existed on January 1, 1992.~~

Drafting Note: No change in substance or districts. This proposed section unites the 100 House of Delegates districts in one section and replaces existing §§ 24.1-17.100 through 24.1-17.202. Proposed § 24.2-304 describes the districts more briefly in terms of the whole localities and the parts of localities comprising the districts. The 100 sections now carried in Title 24.1 describe parts of localities by reference to precincts as they appear on the 1990 census maps and are listed in the redistricting reports for the 1990 census issued under Public Law 94-171. The precinct names used in those sections are now out-of-date and misleading because almost all localities revised their precincts in 1991 and 1992 as part of their local redistricting and precinct review process.

Subsection D of proposed § 24.2-304 continues in effect the reference to the detailed computer report (H0777750) for the current House of Delegates districts filed with the Clerk of the House of Delegates pursuant to Chapter 813 of the 1992 Acts of Assembly. The computer report describes each part of a locality in each district by census precinct and block lists and accounts for all territory in each district.

§§ 24.1-17.101 through 24.1-17.200. [House of Delegates districts.] See proposed § 24.2-304 B.

Drafting Note: These sections carry the descriptions for the 100 House of Delegates districts. Subsection B of proposed § 24.2-304 replaces these 100 sections.

The text of these sections is not set out and stricken in this report due to the length of the text. The text is printed in the 1992 Cumulative Supplement to Volume 5 of the Code.

~~§ 24.1-17.203. [REPEALED] Severability.—If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect the other provisions or applications of this chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this chapter are severable.~~

Drafting Note: Existing § 24.1-17.203 is repealed as unnecessary because it duplicates the severability provision in § 1-17.1. In accordance with Code Commission policy this severability clause has not been set out in the Code. The repeal of this provision does not effect any change because the comparable severability provision in § 1-17.1 continues to apply to each provision and application of proposed § 24.2-304.

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

Drafting Note: Present § 24.1-15 is repealed because it is obsolete. Recent redistricting acts have treated all cities as separate entities and, in effect, have overridden this provision which dates back to the 1919 Code.

Article 3.

Requirements for Election Districts, Precincts, and Polling Places.

~~§ 24.1-40.7~~ 24.2-305 . Composition of election districts and precincts.—A. Each election district ; as defined in ~~§ 24.1-1 (4) (a)~~ and each precinct ; as defined in ~~§ 24.1-1 (9)~~, shall be composed of compact and contiguous territory and shall have clearly defined and clearly observable boundaries.

B. A “clearly observable boundary” shall include (i) any named road or street, (ii) any road or highway which is a part of the federal, state primary, or state secondary road system, (iii) any river, stream, or drainage feature forty feet or more in width, or (iv) any other natural or constructed or erected permanent physical feature which is shown on the official county, city, or town map issued by the State Virginia Department of Transportation or on a United States Geological Survey topographical map. No property line or subdivision boundary shall be used as a precinct boundary unless it appears as a block boundary on the United States Bureau of the Census maps for the 1990 Census.

Drafting Note: No change in substance. Existing § 24.1-40.7 was amended in 1992 to insert subsection A and to require that all election districts and all precincts be drawn with “clearly defined and clearly observable boundaries.” This requirement reflects state policy to draw election district and precinct boundaries along streets, highways, and other features shown on census and other official maps.

The cross-references to the definition section are deleted as unnecessary, but the definitions of election district and precinct are retained in proposed § 24.2-101 and will continue to be applicable to these terms in proposed § 24.2-305.

~~§ 24.1-39~~ 24.2-306 . Changes not to be made enacted within sixty days of general election; notice required requirements.— A. No change as provided for in ~~§ 24.1-36 or § 24.1-37~~ in any local election district, precinct, or polling place shall be made enacted within sixty days next preceding any general election ~~or until notice has been~~ . Notice shall be published prior to enactment in a newspaper having general circulation in ~~such~~ the election district or precinct once a week for two successive weeks. The published notice shall state where descriptions and maps of proposed boundary and polling place changes may be inspected.

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

C. Each county, city, and town shall comply with the applicable requirements of law, including §§ 15.1-37.4, 15.1-37.7, and 24.2-301, for sending copies of enacted changes to the local electoral board, the State Board, and the Division of Legislative Services.

Drafting Note: These notice requirements apply to election districts, precincts, and polling places and so are set out at the beginning of the article. Subsection A covers and clarifies the locality’s responsibility to publish advance notice of changes in local election districts, precincts, and polling places. The provision also requires the notice to state where descriptions and maps of the proposed changes may be inspected. This sentence replaces less specific requirements in the law, deleted in 1992, for publishing district and precinct “boundaries.”

Subsection B addresses a different issue — notice, after changes are enacted, to the voters affected by the changes. Notice must be mailed to each voter of any changes in his election districts, including changes in his congressional or General Assembly districts, and in his polling place. This requirement applies to polling place changes — where the voter goes to vote. Changes in precinct boundaries do not require notice to a voter unless the location of his polling place is also changed.

Subsection C completes coverage of local notice requirements by cross-referencing the provisions which require localities to mail information to various local and state agencies about

enacted changes.

~~§-24.1-36. Councils of cities to establish preeincts. The governing body of a city shall establish as many preeincts as it may deem necessary and a polling place for each preeinct in such preeinct or within 300 yards of the boundary thereof. Such polling places shall be located in public buildings whenever practicable. If more than one polling place is located in the same building, each such polling place shall be located in a separate room or in a separate and defined space.~~

~~Preeincts shall be established so that there shall be not less than 500 nor more than 5,000 qualified voters per preeinct as of the time such preeincts are established and shall be composed as nearly as practicable of contiguous and compact areas having clearly defined and clearly observable boundaries. In cities wherein council members are elected from separate districts or wards, preeincts shall be wholly contained within such separate districts or wards.~~

~~The council shall prescribe and cause to be published the boundaries of the preeincts. It may alter the boundaries of such preeincts, rearrange, increase, or diminish the number thereof, and change the polling places or establish others therefor, not to exceed, however, one polling place for each preeinct. In cities with wards or boroughs not used as council election districts, preeincts may be established to coincide with, or be distinct from, such wards or boroughs.~~

~~In the event that any preeinct contain a number of qualified voters in excess of 5,000, the city shall within six months proceed to alter or rearrange the preeinct boundaries in order that such preeinct shall no longer contain in excess of 5,000 qualified voters. The mere failure to comply with the requirement of this paragraph shall not invalidate any election.~~

~~§-24.1-37. Establishment and alteration of county preeincts.—The governing body of a county shall establish as many preeincts as it may deem necessary and a polling place for each preeinct (i) in such preeinct, (ii) within 300 yards of the boundary thereof, or (iii) within 1,000 yards of the boundary thereof if the polling place is located within a town and the preeinct contains a part of the town. Such polling places shall be located in public buildings whenever practicable. If more than one polling place is located in the same building, each such polling place shall be located in a separate room or in a separate and defined space.~~

~~Preeincts shall be established so that there shall be not less than 100 nor more than 5,000 qualified voters per preeinct as of the time such preeincts are established and shall be composed as nearly as practicable of contiguous and compact areas having clearly defined and clearly observable boundaries. In counties wherein members of the board of supervisors are elected from separate districts, preeincts shall be wholly contained within such separate districts.~~

~~The governing body shall prescribe and cause to be published the boundaries of the preeincts. It may alter the boundaries of such preeincts, rearrange, increase, or diminish the number thereof, and change the polling places or establish others therefor, not to exceed, however, one polling place for each preeinct.~~

~~In the event that any preeinct contain a number of qualified voters in excess of 5,000, the governing body of the county shall within six months proceed to alter or rearrange the preeinct boundaries in order that such preeinct shall no longer contain in excess of 5,000 qualified voters. The mere failure to comply with the requirement of this paragraph shall not invalidate any election.~~

~~The preeincts in any county shall not be divided or created so that resulting preeincts have less than 750 registered voters in order to avoid the requirements of the use of voting machines set forth in § 24.1-302.~~

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

~~At the time any preeinct is established, it shall have no more than 5,000 registered voters. The general registrar shall notify the governing body whenever the number of registered voters in a preeinct exceeds 5,000. Within six months of receiving the notice, the governing body shall proceed to revise the preeinct boundaries to comply with this requirement.~~

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

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

The governing body shall establish by ordinance one polling place for each precinct.

Drafting Note: Proposed § 24.2-307 combines the provisions in existing §§ 24.1-36 and 24.1-37 which spell out separately the requirements for county and city precincts. The proposed section eliminates unnecessary repetition, but retains all existing requirements. One distinction in present law between counties and cities is the different minimum size requirements which are retained in proposed § 24.2-307. A provision is added to require the general registrar to notify the governing body when a precinct has grown too large. This codifies the existing practice. A requirement to act by ordinance is stated explicitly and parallels the existing requirements for towns.

Other provisions in the existing sections are covered elsewhere in proposed Chapter 3: § 24.2-305 states the requirements for contiguity, compactness, and clearly defined and observable boundaries; § 24.2-310 contains the provisions for polling places; and § 24.2-306 contains the notice requirements for precinct changes. The provision in existing § 24.1-37 is deleted which states that counties are not to establish small precincts to avoid voting machine requirements. This provision is repeated in existing § 24.1-203 and covered in proposed § 24.2-624.

Finally, a reference is added to school board election districts in the next-to-last paragraph. Precincts must be wholly contained in any local election district whether used for electing governing body or school board members. This requirement avoids split precincts and is workable since school board districts must be coterminous with the election districts for governing body members under § 22.1-57.3.

~~§ 24.1-92 24.2-308 . Polling places.—There shall be but one polling place for each town, which shall be fixed by ordinance, unless the council thereof by ordinance, adopted subject to the provisions of § 24.1-39, shall provide for, establish and lay off the town into voting precincts, which shall be composed as nearly as practicable of contiguous and compact areas having clearly defined and clearly observable boundaries, in which event they shall also fix the polling places in each precinct. The polling place for any such precinct may be located outside the town's boundary if located no farther than 300 yards from the boundary of the precinct and town. The polling place for any such precinct may be located within 1,000 yards of the boundary of the precinct if located within the town. If more than one polling place is located in the same building, each such polling place shall be located in a separate room or in a separate and defined space. Requirements for town precincts.—There shall be one precinct for each town unless the council by ordinance establishes more than one precinct.~~

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

The council shall establish by ordinance one polling place for each precinct.

Drafting Note: Proposed § 24.2-308 states the requirements for town precincts and is drawn from existing § 24.1-92. Town precinct requirements are stated in a separate section because town precincts are not subject to the size requirements for county and city precincts.

The polling place requirements for towns are included in proposed § 24.2-310. The requirements for contiguity, compactness, and clearly defined boundaries for town precincts are covered by existing § 24.1-40.7 and proposed § 24.2-305 and are deleted from this section.

~~§ 24.1-38. [REPEALED] Abandonment when less than thirty voters in district, precinct or polling place.—If in any district, precinct, or polling place there be not more than thirty qualified voters as shown by the books of the registrar, the governing body of the county or city may abolish the district, precinct or polling place and shall proceed pursuant to § 24.1-36 or § 24.1-37 to alter and rearrange precincts in order that the qualified voters of the abolished precinct be placed in a new precinct.~~

Drafting Note: Existing § 24.1-38 is repealed. This section authorizes local governing bodies to eliminate precincts and polling places serving fewer than 30 registered voters and is unnecessary. Existing §§ 24.1-36, 24.1-37, and 24.1-92 and proposed §§ 24.2-307 and 24.2-308 provide the same—indeed a broader—authorization to alter precincts and polling places. The section also refers to abolishing any “district” with 30 or fewer registered voters and dates back

to the time when courts redistricted. The governing body could petition the court to abolish a district with 30 or fewer voters. Now the governing body has the responsibility to redistrict and this provision has become obsolete.

~~§ 24.1-40~~ 24.2-309 . Establishment of precinct with less than minimum number of voters; conduct of elections where all voters do not have same choice of candidates.—A precinct may be established with fewer than the minimum number of registered voters required by this ~~chapter~~ article if a larger precinct cannot be established in which all persons are voting at any general election for the same candidates for the governing body and school board of the county or city, House of Delegates and State , state Senate , and United States House of Representatives . The governing body may select a polling place within one mile of the boundaries of such that precinct if a suitable polling place is not available within such that precinct.

The State Board of Elections shall make regulations setting procedures by which elections may be conducted in precincts in which all voters do not have the same choice of candidates at a general election.

Drafting Note: No change in substance except to recognize that congressional district lines may create the need to operate a small or split precinct and to include a reference to school board elections.

~~§ 24.1-07. 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 State Board, an alternate polling place and give such notice of the change as is prescribed or approved by the State Board.

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

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

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

D. If an emergency makes a polling place unusable or inaccessible, the electoral board shall provide an alternative polling place and give notice of the change in polling place, subject to the prior approval of the State Board.

Drafting Note: Proposed § 24.2-310 draws together various requirements for polling places located in existing §§ 24.1-36, 24.1-37, 24.1-92, and 24.1-97. Four topics are addressed. Subsection A regulates where a polling place can be located in relation to its precinct. Legislation in 1992 expanded the area outside a precinct for locating a polling place from 300 to 1,000 yards in certain cases. Proposed subsection A adopts a uniform 1,000 yard rule and allows a town precinct polling place to be located within 1,000 yards of the town and precinct boundary. The uniform 1,000 yard leeway gives localities more flexibility to find accessible and appropriate polling places.

Subsection B covers the duty of localities to provide polling places and to locate polling places in public buildings whenever practicable. Subsection B applies to town polling places as well as county and city polling places, and towns are covered by the provision for locating polling places in public buildings. Existing § 24.1-92 was silent on this point. (§§ 24.1-36 and 24.1-37.)

Subsection C addresses accessibility requirements. (§ 24.1-97, § 51.5-1 et seq., 42 U.S.C. § 1973ee et seq., and 42 U.S.C. § 12131 et seq.) Existing § 24.1-97 addresses only the 1984 federal Voting Accessibility for the Elderly and Handicapped Act. The more recent Virginia Act and federal Americans with Disabilities Act also contain accessibility requirements. The State Board has had the responsibility for interpreting the 1984 Act to localities, and proposed subsection C updates its role to cover the more recent Acts. See, also, proposed § 24.2-413.

Finally, Subsection D provides for changing a polling place in an emergency. (§ 24.1-97.)

The second paragraph of § 24.1-97 is deleted since the requirement to open the polls at each polling place is covered in existing § 24.1-98 and proposed § 24.2-603. Moreover, this paragraph was incomplete in that it did not cover special elections.

Article 4.

Effective Dates of Redistricting Measures.

§ ~~24.1-17.2~~ 24.2-311 . Effective date of decennial redistricting measures; elections following decennial redistricting.—A. Legislation enacted to accomplish the decennial redistricting of congressional and General Assembly districts required by Article II, Section 6 of the Constitution of Virginia shall take effect immediately. Members of Congress and the General Assembly in office on the effective date of the decennial redistricting legislation shall complete their terms of office. The elections for their successors shall be held at the November general election next preceding the expiration of the terms of office of the incumbent members and shall be conducted on the basis of the districts set out in the legislation to accomplish the decennial redistricting.

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

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

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

E. In the event of a conflict between the provisions of a decennial redistricting measure and the provisions of the charter of any locality, the provisions of the redistricting measure shall be deemed to override the charter provisions to the extent required to give effect to the redistricting plan.

Drafting Note: No change. This provision and the next provision were enacted in 1990 in advance of the 1991 round of state and local redistricting. The 1990 revision provided, in part, that when a vacancy involves an official who was elected prior to a decennial redistricting and the vacancy occurs after redistricting, the vacancy will be filled from the new district which most closely approximates the old district from which the official was elected.

The rationale for using new districts to fill vacancies is based on the practical workings of the election system. The decennial redistricting involves changes in congressional, state legislative, and local governing body districts in the year following the census, 1991, 2001, etc. Precinct lines are redrawn simultaneously to accommodate the new election district lines and to revise the precincts to meet the state law minimum and maximum size requirements. These changes are entered into the state system so that registered voters are properly assigned to their new precincts and districts and so that the registered voter lists used to run elections will be ready for the first election following redistricting. When this information on new precincts and districts is entered into the state system, the old information on the precincts and districts is automatically deleted. Voters are advised of their new districts and precincts.

It should be noted that existing § 24.1-17.2 and proposed § 24.2-311 present potential difficulties in possible future applications. For example, in 2001 new state Senate lines will be drawn and the first election from the new districts will be held in 2003. If a vacancy occurs in 2001 after redistricting, it may be difficult to identify the new district which most closely approximates the old district in which the vacancy has occurred. For example, if the new district has two incumbents, is there a vacancy which must be filled?

It should also be noted that one situation is not addressed by proposed §§ 24.2-311 and 24.2-312. These sections do not address the rare situation of a non-decennial redistricting for congressional or General Assembly districts and vacancies occurring after a non-decennial redistricting. Existing § 24.1-16 covered this situation for the General Assembly, but not for congressional vacancies. Proposed § 24.2-216, which replaces § 24.1-16, does not address this situation.

~~§ 24.1-17.2~~ 24.2-312 . Effective date of other redistricting measures; elections following annexation.—A. As provided in § 15.1-37.5:1, any redistricting, other than decennial redistricting, of any county, city, or town shall be effective at midnight December 31 of the year in which the redistricting occurs.

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

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

D. When a city or town has been redistricted as a result of annexation and the redistricting occurs prior to a regularly scheduled May general election for members of the city's or town's governing body, the May general election shall be conducted from the newly established districts so long as the redistricting measure has been adopted prior to the November 15 immediately preceding the election.

Drafting Note: No change.

CHAPTER 4.

VOTER REGISTRATION.

Chapter Drafting Note: Proposed Chapter 4 covers qualification and registration of voters and is mainly derived from existing Chapters 5 and 5.1 of Title 24.1. Basic information on the registration process has been consolidated and reorganized into seven articles.

Proposed Article 1 introduces the Chapter by clarifying that a person must be properly registered in order to be a qualified voter. The remaining provisions of the article cover special

situations in which a person who has moved from his precinct or the Commonwealth or who has not reached 18 years old may register or vote.

The role of the State Board and the general registrar in maintaining accurate and current registration records is specified in Article 2. Originally named the Central Registration Roster, the proposed article has been renamed the Virginia Registration System and includes current procedures for maintaining the automated registration records.

Provisions establishing registration times and locations are included in Article 3. Because of numerous changes since 1970, the provisions describing registration locations are revised and more current terminology is introduced. The requirement for general registrars to enter into formal agreements before establishing ongoing registration locations at businesses and other establishments reflects a substantive change. Under existing provisions, such agreements are required only between the general registrar and a participating government agency. In response to the passage of the 1990 Americans with Disabilities Act, accessibility to registration locations is redefined to implement state and federal requirements.

Specific procedures for applying for registration, transferring registration, and correcting registration records are covered in Article 4. Special provisions addressing the registration of ill and disabled persons and the registration of absentee voters are also covered.

Proposed Article 5 consolidates the procedures for cancelling a voter's registration based upon the voter's request, the voter's failure to vote, official notification of the voter's death or disqualification and challenges to the voters' qualifications.

Proposed Articles 6 and 7 implement two special temporary registration procedures mandated by federal law. Article 6 implements parts of the Voting Rights Act entitling persons to register absentee for the presidential election 30 days prior to the election. Article 7 expands existing provisions to cover persons entitled under the Uniformed and Overseas Citizens Absentee Voting Act to register absentee for federal elections who are not qualified under Virginia's Constitution for permanent registration by absentee application.

One revision throughout the chapter concerns the requirement for registration information to be provided under oath. A new false statement penalty provided in proposed Chapter 10 is made applicable to each section where an oath was required under existing law. Persons making a false statement are subject to felony penalties comparable to perjury penalties for false swearing. This change complements changes enacted in 1992 to facilitate motor voter registration procedures.

Article 1.

Qualifications.

~~§ 24.1-41 24.2-400 . Persons entitled to register and vote.— Every citizen of the United States who is eighteen years of age, is a resident of the Commonwealth and of the precinct in which he offers to vote, has been duly registered, and is otherwise qualified, under the Constitution and laws of this Commonwealth shall be entitled to vote for members of the General Assembly and all officers elective by the qualified voters. Any person who is not registered to vote, but would otherwise be a qualified voter, is entitled to register to vote as provided in this chapter. Any person who is registered to vote and is a qualified voter shall be entitled to vote in the precinct where he resides.~~

Drafting Note: This proposed section introduces the chapter on voter registration and provides first that any person who is not registered, but who has the other qualifications to vote, is entitled to register. After registering, he then becomes a "qualified voter" and is entitled to vote. Existing § 24.1-41 refers only to elections for General Assembly members and officers. Proposed § 24.2-400 deletes this language to recognize that qualified voters may also vote in referendum elections. Under the Virginia Constitution, existing § 24.1-1, and proposed § 24.2-101, residence requires both domicile and a place of abode.

Proposed § 24.2-101 defines the term "qualified voter" and incorporates the specific qualifications listed in Article II, Section 1 of Virginia's Constitution and contained in existing § 24.1-41.

The rest of existing § 24.1-41 has been divided into proposed §§ 24.2-401 through 24.2-403. These sections cover special situations in which persons who have moved or are not yet 18 years old may register or vote.

§ 24.2-401. Persons moving from precinct.— A person who is qualified to vote except for having moved his residence from one precinct to another *within the Commonwealth* may vote in the precinct from which he has moved in the following November general election and any intervening election vote in the precinct from which he has moved, provided that the registration of such person has not been transferred or stricken pursuant to ~~§ 24.1-46~~ or purged pursuant to ~~§ 24.1-59~~ or ~~§ 24.1-60~~ unless his registration has been transferred or cancelled as provided in this chapter .

Drafting Note: This portion of existing § 24.1-41 is derived from Article II, Section 1 of the Constitution and carried forward without substantive change. The provision allows a voter who has moved within the Commonwealth and remains registered in his old precinct to continue voting in his former precinct through the next November general election. However, the section is not applicable if the person's registration has been transferred to his new precinct or if he is no longer registered.

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

The officers of election shall deliver to any person who asks to vote under this section the paper ballot for electors of President and Vice-President of the United States and no other ballot. The ballot shall be voted, handled, and counted with other like ballots in accordance with the provisions of this title.

Drafting Note: The first paragraph of proposed § 24.2-402 is carried forward without substantive change. The provision allows registered voters who move from the Commonwealth shortly before a presidential election to vote in their old precinct for President and Vice-President. In this situation a voter may not have time to register in his new jurisdiction because of its registration deadlines. This provision also complies with federal law requirements. See 42 U.S.C. § 1973aa-1. The last paragraph gives instructions to the officers of election on how to handle and count these ballots and is derived from existing § 24.1-41.1.

§ 24.2-403. Persons under eighteen years of age.— Any person who is otherwise qualified and will be qualified with respect to age to vote eighteen years of age at the next general election shall be permitted to register in advance and also vote in any intervening primary or special election.

Drafting Note: No change in substance. This portion of existing § 24.1-41 is derived from Article II, Section 1 of the Constitution and allows persons who will be age 18 by the next general election to register for and vote in primary or special elections held prior to that general election.

~~§ 24.1-41.1. Voting by persons removing from Commonwealth less than thirty days before presidential election.—(a) Any person who removes his residence from this Commonwealth less than thirty days prior to a presidential election, and who was qualified to vote in such election in this Commonwealth immediately prior to such removal, shall be eligible to vote for electors of President and Vice-President of the United States in such election.~~

~~(b) The officers of election shall deliver to any person who asks to vote under this section the paper ballot for electors of President and Vice-President of the United States and no other. Such ballots shall be voted, handled, and counted with other like ballots in accordance with the provisions of this title.~~

Drafting Note: The provisions in subsection (a) duplicate part of existing § 24.1-41. The substance of both subsections (a) and (b) are included in proposed § 24.2-402 to avoid duplication.

~~§ 24.1-41.2. [REPEALED] Residency of persons in certain institutions.—Any person in an institution which is operated by the Department of Mental Health, Mental Retardation and Substance Abuse Services shall for purposes of voting be presumed to be a domiciliary of the county, city or town of which he was a resident at the time of his admission to such institution provided § 24.1-42 is not applicable to such person.~~

Drafting Note: Existing § 24.1-41.2 is repealed as surplusage. The term "residence" is defined in existing § 24.1-1 and proposed § 24.2-101. Moreover, the provisions in existing § 24.1-41.2 do not address other individuals in similar situations such as persons confined in private mental institutions or jails.

~~§ 24.1-42. Persons disqualified from voting.—No person who has been convicted of a felony shall be qualified to vote unless his civil rights have been restored by the Governor or other appropriate authority. No person adjudicated to be mentally incompetent shall be qualified to vote until his competency has been reestablished.~~

Drafting Note: Existing § 24.1-42 has been incorporated into the definition of a qualified voter in proposed § 24.2-101.

Article 2.

Virginia Voter Registration System.

~~§ 24.1-23 24.2-404 . Establishment; duties~~ **Duties of State Board of Elections .—**The State Board of Elections shall provide for the establishment, continuing operation and maintenance of a central record-keeping system , *the Virginia Voter Registration System, on or before October 1, 1972,* for all voters registered in the Commonwealth.

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

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

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

3. Provide to each general registrar, voter registration cards for newly registered voters and for notice to registered voters on the system of changes and corrections in their registration records and polling places.

~~(2)~~ ~~Delete~~ 4. Require the general registrars to delete from the central registration roster the record of registered voters the name of any voter ~~(a)~~ who (i) is deceased, ~~(b)~~ who (ii) is no longer qualified to vote in the election district county or city where he is registered due to removal of his residence, ~~(c)~~ who (iii) has been convicted of a disqualifying crime felony , or ~~(d)~~ who (iv) has been adjudicated mentally incompetent, or who (v) is otherwise no longer qualified to vote as may be provided by law.

~~(3)~~ Enter names of qualified voters on the central registration roster as they are reported by the general registrars.

~~(4)~~ At 5. Retain on the system for four years a separate record for registered voters whose names have been deleted, with the reason for deletion.

6. Provide to each general registrar, at least ten days prior to a general or primary election and three days prior to a special election, provide to each general registrar a list of all registered voters in the county or city, together with an alphabetical list of all registered voters in each precinct of ~~such~~ the county, city , or town ; ~~which~~ . These precinct lists shall be used as the official lists of qualified voters and shall constitute the precinct registration books ~~registered voter lists~~ .

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

~~(6)~~ 7. Acquire by purchase, or lease, or contract for the use of such equipment as is ~~required~~ necessary to execute the duties of the Board properly .

~~(7)~~ Utilize 8. Use any source of information ~~which~~ that may assist in carrying out the purposes of this section. All agencies of the Commonwealth shall cooperate with the State Board in procuring and exchanging identification information for the purpose of maintaining the voter registration system.

~~(8) Furnish, at a reasonable price, precinct lists for their districts to courts of the Commonwealth and the United States for jury selection purposes; to candidates for election or political party nomination to further their candidacy; political party committees or officials thereof for political purposes only; incumbent officeholders to report to their constituents; nonprofit organizations which promote voter participation and registration for that purpose only; and for no other purpose and to no one else. In addition, any general registrar whose records of registered voters are automated may furnish such lists to courts of the Commonwealth and the United States for jury selection purposes. Precinct lists shall be by printout or by magnetic tape to be used on computer equipment as may be requested.~~

Any person receiving such precinct lists shall take and subscribe to the following oath:

~~"I understand that the lists requested are the property of the State Board of Elections of the Commonwealth of Virginia (or name of appropriate county or city) and I hereby affirm that I am a person authorized by § 24.1-23 of the Code of Virginia to receive a copy of the precinct lists described; and I further affirm that the lists will be used only for the purposes prescribed and for no other use, and that I will not permit the use or copying of such lists by persons not authorized by the Code of Virginia to obtain them."~~

~~(Seal) Signature of Purchaser - - - - -~~

~~(9) 9. Reprint and impose a reasonable charge for the sale of reprints any part of Title 24.1-24.2 of the Code of Virginia or portions thereof, precinct lists, copies of lists of names of persons voting at general elections lists of precincts and polling places, statements of election results by precinct, and any other items required of the State Board by law. Receipts from such sales shall be credited to the State Board of Elections for reimbursement of printing expenses.~~

~~(10) Furnish to candidates, elected officials or political party chairmen and to no one else on request, at reasonable cost, lists of those who voted at any primary or general election held in the two preceding years. Any person receiving such lists shall take and subscribe to the oath set forth in paragraph (8) of this section.~~

Drafting Note: All references to the central registration roster are changed to the Virginia voter registration system to reflect the automation of the registration records. References to the establishment of the system are obsolete and have been deleted. Proposed subdivisions 1 through 4 clarify the respective roles of the State Board and general registrars in maintaining the accuracy of the system and notifying voters of their status through the issuance of voter registration cards. Existing subdivision (5) is revised to clarify that the State Board retains for four years a record of voters deleted from the system. Records of voters who are registered are retained indefinitely and until there is a reason for deletion.

The new sentence at the end of proposed subdivision 8 is derived from existing § 24.1-27 and is also modified to apply to the ongoing maintenance of the system. Existing subdivisions (8) and (10) relating to accessibility to precinct and voter lists are moved to proposed §§ 24.2-405 and 24.2-406. The requirements to obtain these lists are moved to proposed § 24.2-407. The references to the sale of "precinct lists" and voter lists in subdivision 9 are deleted because these items are covered separately in proposed §§ 24.2-405 and 24.2-406. A reference is added to cover the lists of precincts and polling places now sold by the Board. Other changes are stylistic and clarifying.

§ 24.2-405. Persons who may obtain lists of registered voters.—The State Board shall furnish, at a reasonable price, lists of registered voters for their districts to (i) courts of the Commonwealth and the United States for jury selection purposes, (ii) candidates for election or political party nomination to further their candidacy, (iii) political party committees or officials thereof for political purposes only, (iv) incumbent officeholders to report to their constituents, and (v) nonprofit organizations which promote voter participation and registration for that purpose only. The lists shall be furnished to no one else and used for no other purpose, except that the State Board is authorized to furnish information from the voter registration system to general registrars for their official use.

Drafting Note: This proposed section sets out, without substantive change, part of subdivision (8) from existing § 24.1-23 concerning the State Board's duty to furnish lists of registered voters. Language in existing subdivision (8) is deleted which relates to separate local automated files and to the formats in which lists may be provided. The first provision is unnecessary since localities are now on-line with the system and are not permitted to maintain separate lists. The latter is unnecessary since the authorization for the Board to provide these lists includes the authorization to provide the lists in appropriate hardcopy or electronic formats. The last sentence has been reworded to emphasize that the lists are only to be used for the purposes authorized by law. In addition, the last clause states that proposed § 24.2-405 is not in conflict with the

State Board's duty to provide general registrars with lists of registered voters for their jurisdictions and its general authority to provide other lists and information useful to the general registrars.

§ 24.2-406. Persons who may obtain lists of persons voting at primaries and elections.—The State Board shall furnish to candidates, elected officials, or political party chairmen and to no one else, on request and at a reasonable price, lists for their districts of persons who voted at any primary or general election held in the two preceding years. Such lists shall be used only for campaign and political purposes and for reporting to constituents.

Drafting Note: This proposed section contains provisions from subdivision (10) of existing § 24.1-23. The addition of the phrase "for their districts" reflects current administrative practice and parallels the preceding section on furnishing lists of registered voters. The last sentence restricts the use of voter lists to campaign, political, and constituent purposes. These restrictions also apply to registered voters lists under current law and proposed § 24.2-405 and are included in proposed § 24.2-406 for consistency. Other changes are stylistic.

§ 24.2-407. Statement for persons receiving lists of persons registered or voting; penalties.—Any person receiving lists pursuant to § 24.2-405 or § 24.2-406 shall sign the following statement:

"I understand that the lists requested are the property of the State Board of Elections of the Commonwealth of Virginia, and I hereby state or agree, subject to felony penalties for making false statements pursuant to § 24.2-1016, that (i) I am a person authorized by § 24.2-405 or § 24.2-406 of the Code of Virginia to receive a copy of the lists described; (ii) the lists will be used only for the purposes prescribed and for no other use; and (iii) I will not permit the use or copying of the lists by persons not authorized by the Code of Virginia to obtain them.

Signature of Purchaser

Drafting Note: This proposed section contains provisions from subdivision (8) of existing § 24.1-23. The oath in existing § 24.1-23 is replaced by a self-executing statement which applies to lists of persons registered or voting, covered by proposed §§ 24.2-405 and 24.2-406, and so is stated in this separate section to cover both of those sections. A reference is added to the felony penalties applicable to false statements under proposed § 24.2-1016.

§ 24.1-24. [REPEALED] General registrars to furnish copy of application to State Board of Elections.—Each month at the time requested by the State Board and, when an election is to be held, within five days after the precinct lists or pollbooks are closed prior to such election, each general registrar shall furnish to the State Board of Elections one copy of each properly completed application to register to vote, or, if permitted or requested by the Board, such information may be supplied on such data processing tapes, disks, or other documents as are acceptable to the Board, and such other information concerning each registered voter as may be requested by the Board.

Drafting Note: Existing § 24.1-24 has become obsolete and is repealed. The information from the application is now available directly to the State Board from the voter registration system.

§ 24.1-25 24.2-408 . Bureau State Registrar of Vital Statistics Records to furnish monthly report to State Board of Elections.—The Bureau State Registrar of Vital Statistics Records shall furnish the State Board of Elections a monthly report of all persons of the age of ~~eighteen~~ *seventeen* years or more who shall have died in the Commonwealth subsequent to its previous monthly report. ~~The Board shall transmit such statistics to the appropriate general registrars.~~ *Such* The reports shall contain the ~~deceased's name of the deceased,~~ ; address ; ; county, city , or town of residence ; his ; social security ~~or other identification number approved by the Board~~ , if any; and the date and place of his birth and of his death. ~~The initial report shall be made upon request of the State Board of Elections, but in no event later than January 1, 1972. The Board shall transmit the information from the reports to the appropriate general registrars.~~

Drafting Note: A technical correction has been made in this section to reflect that the State Registrar of Vital Records is the authority who furnishes and certifies the information pertaining to residents of the Commonwealth who have died. The provision for an alternative identification number is deleted since alternative numbers are not used in the system. Information on persons 17 years old is necessary because under Article II, Section 1 of the Constitution any person who will be 18 by the next general election may register and vote in primaries and special elections

held prior to that general election.

~~§ 24.1-26~~ 24.2-409 . Division of Criminal Records to furnish monthly list of *felony* convictions to State Board of Elections.—The Division of Central Criminal Records Exchange shall furnish monthly to the State Board of Elections a complete list of all persons convicted of a *felony* during the preceding month of ~~those offenses set forth in the Constitution upon conviction of which a person is disqualified to vote~~ . The Board shall ~~transmit such statistics to the appropriate general registrars.~~ Such The list shall contain the *convicted person's* name of the person convicted, his ; address ; his ; county, city, or town of residence ; his ; social security or other identification number approved by the Board , the if any; date and place of his birth ; and the date of his conviction. The initial report shall be made upon request of the State Board of Elections but in no event later than January 1, 1973. The Board shall transmit the information from the list to the appropriate general registrars.

Drafting Note: The first sentence is corrected to track the present Constitution which specifies that conviction for a "felony" offense disqualifies a voter. The provision to allow for an alternative identification number is deleted since it is not currently used by the State Board in maintaining the registration system. However, its deletion does not prohibit the Division of Criminal Records Exchange from continuing to provide any other identification information it deems necessary for the exchange of information with the State Board.

~~§ 24.1-26.1~~ 24.2-410 . Clerks of circuit courts to furnish lists of incompetents.—The clerk of each circuit court shall furnish monthly to the Secretary of the State Board of Elections a complete list of all persons adjudicated mentally incompetent or restored to competency during the preceding month or a statement that no adjudications have occurred that month . Such The list shall contain the name of the person adjudicated mentally incompetent or restored to competency; his each such person's name; address ; his ; county, city , or town of residence ; his ; social security number, if any ; the ; date and place of his birth ; and the date of his adjudication. The initial report shall be made upon request of the State Board of Elections. The Board shall transmit such the information from the list to the appropriate general registrars.

Drafting Note: First, reports are required monthly even if no one has been adjudicated incompetent to provide a complete set of records for the State Board. This requirement reflects actual practice today in most cases.

Second, the requirement to report restorations of competency is deleted. Whenever a person is reported to be adjudicated mentally incompetent, his name is stricken from the registration records. When the person's competency is restored, he is not automatically restored to the registration records. He must reregister. Information pertaining to restoration is therefore unnecessary. The situation is similar to a person who has been convicted of a felony at a trial court, but the conviction was overturned on appeal. He must reregister, and the Board does not accumulate information on overturned convictions in anticipation of possible future registrations.

§ 24.1-27. [REPEALED] Powers of State Board of Elections to establish central registration roster system; departments of the Commonwealth to cooperate.—In order that the requirements of the establishment of a central registration roster by the State Board of Elections can be accomplished in a proper and orderly manner in addition to the duties imposed upon the State Board of Elections by § 24.1-23 the Board is authorized:

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

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

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

(4) To promulgate regulations establishing the duties of the electoral boards necessary to the establishment and operation of the central registration roster system, such regulations to be promulgated pursuant to the provisions of the Administrative Process Act (§ 9 6.14:1 et seq.).

All departments of the Commonwealth shall cooperate with the State Board of Elections in procuring and exchanging statistical identification information for the purpose of establishing the central registration roster system.

Drafting Note: Existing § 24.1-27 is repealed. It became obsolete once the Virginia voter registration system was established and operating. The last sentence is retained in modified form in proposed § 24.2-404 subdivision (8) because the State Board continues to use identification information obtained from other state agencies to maintain the accuracy of the registration system.

Article 3.

Locations and Times for Registration.

§ 24.2-411. *Office of the general registrar.*—Each local governing body shall furnish the general registrar with a clearly marked and suitable office which shall be the principal office for voter registration. The office shall be owned or leased by the city or county, adequately furnished, and located within the city or within the county or a city in which the county courthouse is located. The governing body shall provide property damage liability and bodily injury liability coverage for the office and shall furnish the general registrar with necessary postage, stationery, equipment, and office supplies. The telephone number shall be listed in the local telephone directory separately or under the local governmental listing under the designation “Voter Registration.”

No private business enterprise shall be conducted in the general registrar’s office.

The general registrar’s office in counties and cities with a population under 10,000 shall be open a minimum of three days each week and additional days as required by the general appropriation act. The general registrar’s office in all other counties and cities shall be open a minimum of five days each week. The specific days of normal service each week for general registrars shall be determined by the State Board.

Additional hours, if any, that the general registrar’s office is open for voter registration may be determined and set by the general registrar or the electoral board.

Drafting Note: No change in substance. These provisions are brought together from existing §§ 24.1-43, 24.1-46, and 24.1-49 to describe in one section the requirements and normal hours for the general registrar’s office. The term “premises liability insurance” is clarified by using terminology commonly understood and used by the insurance industry and defined in Title 38.2. Under present law and proposed § 24.2-411, localities provide insurance to cover liability claims arising out of property damage and personal injury occurring in the office of the general registrar. Public liability insurance against claims arising from the acts or omissions of the general registrar while performing his duty is provided by the state under § 2.1-256.8. The reference to the general registrar’s office being open at least three days each week in counties and cities with a population under 10,000 and five days each week in all other counties and cities reflects the current law in the general appropriation act.

§ 24.1-45.2. ~~Registration sites at government offices.~~ 24.2-412. *Other locations and times for voter registration.*—A. Opportunities for voter registration may be provided at agency offices, business offices, other establishments and occasional sites open to the general public, and shall be provided as required by this section. Voter registration shall be conducted only in public places open to the general public and at preannounced hours. Assistant registrars should serve during such hours and at such places. The conduct of voter registration by the general registrar or an assistant registrar in public places at preannounced hours shall not be deemed solicitation of registration.

B. The general registrar shall be is authorized to set additional sites within his jurisdiction ongoing locations and times for registration in local or state government agency offices within his jurisdiction or in businesses or other establishments open to the general public, subject to the approval of, and pursuant to an agreement with, the head of the government agency : Such an , the owner or manager of the business or establishment, or the designee of either. The agreement may shall provide for the appointment of employees of the agency , business, or establishment to serve as assistant registrars ; in which case the agreement and 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; except that agency

~~employees~~ **Employees of the agency, business, or establishment** who are appointed to serve as assistant registrars may be nonresidents of the jurisdiction they are appointed to serve, provided that (i) they are qualified voters of the Commonwealth and (ii) they serve only at their ~~government agency office~~ **place of employment** within the jurisdiction they are appointed to serve.

C. The general registrar or electoral board may set additional occasional sites and times for registration within the jurisdiction. A multi-family residential building not usually open to the public may be used as an occasional registration site so long as the public has free access to the site during the time for registering voters.

D. The general registrar in each county or city shall designate registration locations, in addition to the general registrar's principal office, for registration at one or more times within the forty days immediately preceding the final day of registration prior to each November general election. He shall designate at least one location for each 5,000 of population in his county or city, but shall not be required to designate more than twenty locations for the purposes of this subsection. These locations shall be geographically dispersed throughout the county or city. Times for registration at these locations shall be scheduled, to the extent possible, after five o'clock p.m. or on weekends. Each general registrar shall file with the State Board by the immediately preceding July 1, the plans for these designated locations and the hours each location will be open.

Drafting Note: Proposed § 24.2-412 combines provisions from existing §§ 24.1-45.2 and 24.1-49 on registration locations other than the general registrar's office. There have been numerous changes since 1970 to expand the number and types of registration sites. The terminology in proposed § 24.2-412 reflects current usage: agency offices, business offices and other establishments open to the general public, and additional sites. The first two categories are usually used on a regular and continuing basis, e.g., five days a week or one day a week. Occasional sites are usually established on a less regular schedule. "Establishments open to the general public" include places identifiable to the public which may not technically constitute a business. Some common examples include voluntary fire departments and community rooms of places of worship. No change in substance is made by using the more current terms. Three additions are made to current law. First, the general registrar is required to enter into agreements with businesses and other establishments before setting up ongoing registration locations—a reflection of current practice. Second, the employees of these businesses and establishments who are nonresidents of the jurisdiction may be appointed to serve as assistant registrars at their place of employment as are nonresident employees of agencies under present law. Third, the date the general registrar must submit its plans for designated registration locations for the forty days before the final day of registration is moved from August 15 to July 1 to allow more time for the State Board to disseminate the information. A designated registration location is any public place set for registration other than the principal office of the general registrar. A nonessential cross-reference to assistant registrars' qualifications has been deleted.

§ 24.2-413. Accessible registration locations.—The office of the general registrar and each agency, business, and establishment set for registration pursuant to § 24.2-412 B shall be accessible as required by the provisions of the Virginians with Disabilities Act (§ 51.5-1 et seq.), the Voting Accessibility for the Elderly and Handicapped Act (42 U.S.C. § 1973ee et seq.), and the Americans with Disabilities Act relating to public services (42 U.S.C. § 12131 et seq.). The State Board shall provide instructions to the local electoral boards and general registrars to assist them in complying with the requirements of the Acts.

In the selection of additional registration sites, consideration shall be given to accessibility so that a reasonable number of accessible sites are provided and the requirements of the above cited Acts are met.

Drafting Note: The first paragraph implements mandates contained in the 1990 Americans with Disabilities Act which requires public services to be accessible to "qualified individuals with disabilities," the Virginians with Disabilities Act (§ 51.5-1 et seq.) which requires that no person shall be denied the opportunity to register and vote in Virginia because of a disability (§ 51.5-43 et seq.) and the 1984 Voting Accessibility for the Elderly and Handicapped Act. The State Board is required to provide instructions to local electoral boards and general registrars to assist them in complying with the Acts.

The second paragraph is derived, in part, from existing § 24.1-43 and requires a reasonable number of occasional registration sites to be accessible so that elderly and disabled persons have fair access to register without requiring every occasional site to be equally accessible.

~~§ 24.1-40~~ 24.2-414. Final registration day ; other hours and places for registration; notice .— The principal office of each general registrar shall be open a minimum of one day per week or pursuant to ~~§ 24.1-43~~. The general registrar shall publish annually the location and time that the office will normally be open each week. Each general registrar in the Commonwealth shall, thirty-one days before the day fixed by law for every regular primary election and every general election which that will be held in his jurisdiction, hold a final day of registration for such the election. On such the final day of registration, the principal office of the general registrar shall be open a minimum of eight hours and shall be closed location shall be closed no later than five o'clock 5:00 p.m. The registrar shall make a list by name of these any persons ; if any, in line at the time of closing and shall permit such those persons to complete an application to register or to make any necessary changes to their registration records as required by law .

The general registrar shall give notice of the time and place at which he will sit for the final day of registration at least ten days before each day.

Additional hours, if any, that the office is to be open for registration of qualified voters may be determined and set by the general registrar or the electoral board.

The general registrar in each county or city shall set additional public places other than the principal office for registration at one or more times within the forty days immediately preceding the final day of registration prior to each November general election. The required number of separate and additional registration places for each county or city shall be not more than twenty and up to this number there shall be at least one additional place set in each county or city for each 5,000 of population. Such places shall be geographically dispersed throughout the county or city, and times for registration at such places shall be scheduled, to the extent possible, after five o'clock p.m. or on weekends. Each general registrar shall file the plans for these additional places and the hours each such additional place will be open with the State Board of Elections by the immediately preceding August 15.

The general registrar or electoral board may set other times and places in public places for registration.

The appearance by the general registrar or assistant registrar in public places at preannounced hours shall not be deemed solicitation of registration.

Any public place set for registration, other than the principal office of the general registrar, shall constitute an additional registration place. A multi-family residential building not usually open to the public may be used as an additional registration place so long as the public has free access to the registration site during the time for registering voters.

Assistant registrars should serve during such additional hours and at such other places.

The general registrar shall give annual notice for the following year of all scheduled times and places for voter registration. The annual notice and the notice for the final day of registration shall be posted at the courthouse and published at least once in a newspaper of general circulation in the county or city.

Notice of additional times and places not listed in the annual schedule shall be given at least three days before the day on which such additional times and places are to be provided. The notice of such additional times and places shall be either published at least once in a newspaper of general circulation in the county or city or announced at least twice on a television station serving the county or city.

Drafting Note: Existing § 24.1-49 has been divided into three parts: proposed §§ 24.2-411 and 24.2-412 contain provisions covering the general registrar's office and other registration locations and times to register; proposed § 24.2-414 covers the final day for registration; and proposed § 24.2-415 covers how notice is given of the places and times to register.

§ 24.2-415. Notice of times and locations for registration.—In the month of January each year, each general registrar shall give notice for that year of all scheduled dates, hours, and locations for voter registration. In addition, he shall give a separate notice of the date, hours, and locations for registration on the final day of registration at least ten days before each final day. The annual notice and the notice for the final day shall each be posted at the courthouse and published at least once in a newspaper of general circulation in the county or city.

Three days' advance notice shall be given for additional times and locations not listed in the

annual schedule. This notice shall be either published at least once in a newspaper of general circulation in the county or city or announced at least twice on a television station serving the county or city.

Drafting Note: No change in substance. This separate notice section includes provisions from existing § 24.1-49. Revisions clarify that (i) the annual notice and the notice of the final day of registration are separate notices, (ii) the final day notice must be posted and published at least 10 days before the final day, and (iii) the annual notice scheduled times and locations for voter registration for the year must be provided in January.

~~§ 24.1-60 24.2-416 . No registration between final day and election; closing registration books prior to special election.—After the completion of the registration on the final day of registration fixed therefor as provided in § 24.1-40, and in the event that an election is to be held within the county or city, no additional persons shall be registered until after the day on which the succeeding primary or general election is held.~~

For the purpose of registering voters, all registration books not previously closed as hereinabove provided shall be closed for a period of six days immediately preceding the day of any special election called by the Governor, Speaker of the House or President of the Senate, and for a period of thirteen days preceding all other special elections. Closing registration records before elections.—In any county, city, or town in which an election is being held, the registration records shall be closed for the purpose of registering voters on the election day and during the period in advance of the election as provided in this section. The registration records shall be closed during the thirty days before a primary or general election. If the registration records have not been closed previously for a primary or general election, they shall be closed during the six days before a special election called by the Governor, Speaker of the House of Delegates, or President Pro Tempore of the Senate, or pursuant to rule or resolution of either house of the General Assembly and during the thirteen days before any other special election.

Drafting Note: No change in substance. Three points are clarified: that records are closed 30 days before primary and general elections and on election days; that the records are closed in towns for the same period; and that a special election may be called by either house. See § 24.2-216.

Article 4.

Registration of Voters.

~~§ 24.1-47 24.2-417 . Who Persons to be registered for all elections.—Each registrar shall register every citizen of the United States, resident of his election district, county or city who shall apply has the qualifications required by the Constitution of Virginia and this title and who applies for registration in person, or by absentee application as set forth in § 24.1-48 24.2-419 , to be registered at the time and in the manner required by law ; and who shall have the qualifications required by the Constitution and this title .~~

Any person, once properly registered, shall remain registered unless his registration is cancelled pursuant to Article 5 (§ 24.2-426 et seq.) of this chapter.

Drafting Note: No change in substance. The phrase "county or city" is substituted for "election district" since the registrar has jurisdiction to register voters of his county or city. The final sentence is transferred to this section from existing § 24.1-48 without substantive change. The provision belongs at the beginning of the article since registration is permanent and continues to be effective until cancelled as provided by law and provisions set out later in the chapter.

§ 24.1-48. Application for registration. Each applicant to register shall provide the information necessary to complete the application to register under oath, and, unless physically disabled, shall sign the application. The application to register shall be only upon a form or forms prescribed by the State Board of Elections. For the purposes of § 24.1-270, the applicant shall be deemed to have self-administered the required oath by the act of signing the application form on which the oath appears.

Any person otherwise qualified to vote (1) who is on active service as a member of the armed forces of the United States, his spouse or dependent, (2) who is a member of the merchant marine of the United States, his spouse or dependent, or (3) who resides temporarily

outside of the United States by virtue of his employment, his spouse or dependent residing with him, and is normally absent from the city or county in which he resides due to such active service or employment, shall be allowed to register by absentee application. The provisions of § 24.1 50 notwithstanding, such application from a member of the armed forces or merchant marine of the United States, his spouse or dependent, may accompany an application for absentee ballot and shall be upon a form prescribed by the State Board of Elections pursuant to § 24.1 22.

The provisions of § 24.1 50 notwithstanding, any person, who was on active service as a member of the armed forces of the United States and discharged from the armed forces at any time during the thirty days immediately preceding the final day of registration provided in § 24.1 40, and the spouse or dependent of such person, shall be entitled to register to vote in person up to and including the day of the election. The State Board of Elections shall prescribe procedures for the addition of persons registered hereunder to the lists of registered voters by a supplementary list or other procedure.

When properly registered under this section, a person shall continue as registered as provided by law; provided, however, any registered voter shall be entitled to have his registration cancelled and his name removed from the registration books and central registration roster by signing in person at the office of his registrar an authorization for cancellation on a form provided by the State Board of Elections.

Drafting Note: Existing § 24.1-48 is reorganized as follows: provisions on application requirements are placed in proposed § 24.2-418; provisions on the oath are in proposed § 24.2-1016; absentee registration provisions are stated in proposed § 24.2-419; the special provisions for registration by military personnel are covered in proposed §§ 24.2-419 and 24.2-420; the first part of the final paragraph is stated at the beginning of the article in § 24.2-417; and the final provision on cancelling registrations is shifted to proposed § 24.2-426 in Article 5 with other cancellation provisions.

§ 24.2-418. *Application for registration.*—Each applicant to register shall provide, subject to felony penalties for making false statements pursuant to § 24.2-1016, the information necessary to complete the application to register. Unless physically disabled, he shall sign the application. The application to register shall be only on a form or forms prescribed by the State Board.

The form of the application to register shall require the applicant to provide the following information: full name, including the maiden name and any other prior legal name; age; gender; date and place of birth; social security number, if any; whether the applicant is presently a United States citizen; address and place of abode and date of residence in the precinct; place of any previous registrations to vote; and whether the applicant has ever been adjudicated to be mentally incompetent or convicted of a felony, and if so, under what circumstances the applicant's right to vote has been restored.

Drafting Note: The first paragraph is derived from existing § 24.1-48. The form of the application has been taken from existing § 24.1-22 and included in this section with a few exceptions. Information pertaining to a person's gender is required by proposed § 24.2-418 in order to complete an application for registration. Although not mandated by Virginia's Constitution, gender information is a useful identifier and is currently requested on the application. Information pertaining to a person's marital status and occupation is no longer required for registration by Virginia's Constitution and is not currently required on the application form. Accordingly, the requirement is deleted from this section. A reference is added to the felony penalties applicable to false statements under proposed § 24.2-1016.

§ 24.2-419. *Absentee application for registration.*—The following persons are entitled to register by absentee application if they are eligible to be registered and if, by reason of active service or employment, they are normally absent from the city or county in which they reside:

1. Any member of the armed forces of the United States who is on active service.
2. Any member of the merchant marine of the United States.
3. Any person who resides temporarily outside of the United States by virtue of his employment.
4. Any spouse or dependent residing with a person listed in subdivisions 1, 2, and 3 of this section.

Notwithstanding the provisions of § 24.2-416, the registration application from a member of the armed forces or merchant marine of the United States, his spouse or dependent, may accompany an application for absentee ballot and shall be on a form prescribed by the State Board.

Drafting Note: Virginia's Constitution requires in-person voter registration in Article II, Section 2, and allows absentee registration only in specific cases in Article II, Section 4. This provision implements Article II, Section 4. Existing § 24.1-48 is reworded to simplify the structure of the provisions and to conform to Article II, Section 4. Existing § 24.1-48 is not clear as to whether it applies to spouses and dependents who do not reside with members of the armed forces or merchant marine. Under Article II, and present absentee voter provisions in § 24.1-227, only a spouse or dependent residing with such a person is covered. Proposed § 24.2-419 clarifies this point in subdivision 4. Proposed Article 7 (§ 24.2-440 et seq.) of this chapter covers persons who are not qualified to register for permanent registration under Virginia's constitution, but who are entitled to vote in federal elections under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff et seq.).

The final paragraph is carried forward without substantive change from existing § 24.1-48 and continues in effect the present state policy to waive the deadline for voter registration (the closing of the registration records 30 days before an election) for registration applications from armed forces and merchant marine personnel, their spouses and dependents.

§ 24.2-420. Extended time for registration by certain former members of the armed forces and their spouses and dependents.— Notwithstanding the provisions of § 24.2-416, any person who was on active service as a member of the armed forces of the United States and discharged from the armed forces at any time during the sixty days immediately preceding the election, and his spouse or dependent, shall be entitled to register, if otherwise qualified, in person up to and including the day of the election. The State Board shall prescribe procedures for the addition of persons registered under this section to the lists of registered voters.

Drafting Note: This provision is taken from existing § 24.1-48 which covers applications to register. It was enacted in 1989 and creates an exception to the provisions for closing the registration records prior to an election for military personnel discharged shortly before an election who register in person. Present law is not clear whether the exception applies for special elections. Proposed § 24.2-420 applies to all elections. Existing § 24.1-48 does not address persons in the military who are discharged between the closing of the registration records and the election. The current practice is to allow these individuals, their spouses, and dependents to register in person up to and including the day of the election. Proposed § 24.2-420 incorporates this practice.

~~§ 24.1-40.1.~~ *24.2-421 . Registration of certain ill or disabled persons.—Any person who is unable to apply to register in person at the office of the general registrar due to continuing illness or physical disability may request that the general registrar or an assistant registrar come to his place of abode for the purpose of taking his application for registration. His The request shall be in writing and accompanied by a written statement signed in the presence of two subscribing witnesses by the applicant who shall state, subject to felony penalties for making false statements pursuant to § 24.2-1016; that he is unable to leave his place of abode for the purpose of applying for registration and that such illness or disability has existed continuously for at least thirty days. Such The statement shall be on a form prescribed by the State Board of Elections and signed by his . Two persons shall sign the form as witnesses to the applicant's signature. The applicant's physician or his accredited religious practitioner shall certify the statement and sign the form. For the purposes of this section, "accredited religious practitioner" means a person who has been trained in spiritual healing or the other healing arts and has been so accredited by a formal religious order.*

~~Upon~~ *On receipt of such written request and statement the completed form , the general or assistant registrar shall establish, by telephone or by letter, a time on an approved day at which when he shall bring the form for take an application for registration to the place of abode of such person the applicant . Approved days and times for taking applications to residences shall be no fewer than four days per year and shall be determined and set by the general registrar, and notice thereof shall be published as is provided in § 24.1-40 24.2-415 .*

~~The requirement of § 24.1-40 that registration be conducted in public places shall not be applicable for purposes of this section, and no action taken by any registrar to comply with the provisions of this section shall be deemed solicitation of registration or a violation of § 24.1-46~~
(1) .

The general or assistant registrar may request that an officer of the law accompany him in the visitations required by this section, and it shall be the duty of the local law enforcement agency to provide an escort upon request.

~~Any person seeking to apply for registration pursuant to this section and signing a statement for such purpose shall be subject to the penalty provisions of §-24.1-270.~~

Drafting Note: Existing § 24.1-49.1 requires a person requesting to register at home to sign a statement that, in effect, he complies with the requirements of the section and his statement is subject to felony penalties for false statements pursuant to § 24.2-1016. The third paragraph is deleted as unnecessary. The specific requirement in this section that the opportunity to register be made available to homebound persons necessarily overrides the otherwise generally applicable provisions cited in the paragraph. A definition is added for the term "accredited religious practitioner." The definition was provided in an opinion of the Attorney General (1989 Report of the Attorney General p. 228) and has been relied on since 1989.

~~§ 24.1-67~~ 24.2-422 . Appeal of person denied registration.— ~~Any~~ A person denied registration shall have the right to appeal, without payment of writ tax or giving security for costs, to the circuit court of the county or city in which he offers to register by filing with the clerk of the court, within ten days ~~thereafter~~ after the denial , a petition in writing to have his right to register determined.

~~Such person~~ The petitioner may file his petition by completing and filing a form which shall be prescribed by the State Board of Elections and which shall be used by the general registrar to notify an applicant of the denial of his application to register and of the reasons for the denial as provided in §-24.1-46 (7) . The same form shall (i) state that an applicant denied registration has the right to appeal to the circuit court of the county or city in which he offers to register, (ii) give the name and address of the clerk of the circuit court for such county or city (to be supplied by the general registrar), (iii) state that a filing fee of ten dollars must be paid when filing the petition, (iv) contain a statement by which the applicant may indicate his desire to petition the court to have his right to register determined, and (v) provide space for the applicant to state the facts in support of his right to register.

~~Upon~~ On the filing of a petition to have the right to register determined, the clerk of the court shall immediately bring the matter to the attention of the chief judge of the court for the scheduling of a hearing on the petition. The matter shall be heard and determined upon ~~such~~ on the face of the petition , and ~~as~~ the answer made in writing by the general registrar , and ~~such~~ any evidence as may be introduced in support thereof as part of the proceedings . ~~Such~~ The proceedings shall take precedence over all other business of the court and shall be heard as soon as possible.

~~Upon~~ On the filing of ~~such~~ the petition , the clerk of the court shall at ~~once~~ immediately give notice to the attorney for the Commonwealth for his county or city, ~~whose duty it who~~ shall be to appear and defend against the petition ~~in~~ on behalf of the Commonwealth.

Judgment in favor of the petitioner shall entitle him to registration. From a judgment rendered against ~~him~~ the petitioner, an appeal shall lie to the Supreme Court of Virginia.

Drafting Note: No change in substance.

~~§ 24.1-61~~ 24.2-423 . Notice of change of name of registered voter.—Whenever ~~the name of any~~ a registered voter ~~shall have been changed~~ changes his name , either by marriage or order of court, or otherwise, ~~such~~ the voter shall notify in writing the general registrar ~~in whose of the jurisdiction such voter where he is registered and the~~ . The general registrar shall enter ~~each change of the new name upon~~ on the registration books records and issue the voter a new voter registration card .

Drafting Note: Clarifying language has been added to recognize that a change in a voter's registration record triggers notification to the voter through the issuance of a new voter registration card. Other changes are stylistic.

~~§ 24.1-62~~ 24.2-424 . Transfer of voter to another election district ~~in~~ Change of registered voter's address within same county or city.—Whenever a registered voter changes his place of residence ~~from one election district to another, in~~ within the same county or city, he shall promptly notify in writing the general registrar of his removal and the address of his new

~~residence the address of his new residence . Such~~ On receipt of the notification shall be sufficient to entitle him to be registered in the election district to which he has removed, on its appearing to the satisfaction of the registrar that he resides in such district. At any time other than within thirty days prior to the election, the registrar shall enter the name of every such person in the registration books of the election district to which the voter has removed , the general registrar shall (i) enter the new address on the registration record; (ii) if satisfied that the registered voter has moved into another precinct within the same county or city, transfer the registration of the voter to that precinct; and (iii) issue the voter a new voter registration card. This transfer may be entered in the registration records at any time the registration records are not closed pursuant to § 24.2-416.

Drafting Note: The existing section has been revised to clarify that a voter has the obligation whenever he moves within the same county or city to notify his general registrar. The term precinct is substituted for election district since registration records are maintained on precinct lists. Additional language is added to clarify that the transfer of registration triggers the issuance of a new voter registration card as the means of notifying the voter of the transfer. The reference to the time in which registration records are closed is reworded to cover special and general election time periods under proposed § 24.2-416.

~~§ 24.1-53~~ 24.2-425 . Transfer of registered voter to another county or city.—Whenever a registered voter changes his place of residence from one county or city to another in the Commonwealth, he may appear in person before a general registrar to request transfer of his registration ; sign an authorization on a form prescribed by the State Board of Elections for cancellation of his previous registration; and provide, under oath, to the registrar in the new jurisdiction subject to felony penalties for making false statements pursuant to § 24.2-1016, all pertinent information required by § ~~24.1-22~~ 24.2-418 for registration.

A request for transfer may be made by mail in which case the application for transfer and authorization shall be signed by the voter who shall subscribe the same and vouch under penalty of perjury that the facts stated therein are true and correct, and his and subject to felony penalties for making false statements pursuant to § 24.2-1016. His signature shall be witnessed by one person who shall subscribe sign the same application, provide his full name and address, and state he is age eighteen or older.

If it appear to the satisfaction of such the general registrar of the voter's new residence is satisfied that the voter has met the requirements of the Constitution of Virginia, he shall be entitled to be registered in such district, and the name of every such person shall be entered on the registration books of the election district in which such person resides any time during which the registration books be open to be registered, the voter's registration shall be transferred and a new voter registration card issued to him. A transfer may be entered in the registration records at any time the registration records are not closed pursuant to § 24.2-416 .

Drafting Note: Existing § 24.1-53 has been revised to clarify that a voter may request a transfer to a new county or city in person or by mail. An authorization for cancellation is no longer needed since the registration system automatically cancels a registered voter's previous registration record when the transfer is effectuated. Language is added to recognize that a new voter registration card is issued when the transfer is completed. A reference is added to the felony penalties applicable to false statements under proposed § 24.2-1016.

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

Drafting Note: This provision is included in proposed § 24.2-114 in Chapter 1 with the duties of the general registrar.

Article 5.

Cancellation of Registration.

§ 24.2-426. Voluntary cancellation of registration.—Any registered voter may cancel his registration and have his name removed from the active central registration records by signing in person at the office of the general registrar an authorization for cancellation on a form prescribed by the State Board.

Drafting Note: No change in substance. This section is taken from existing § 24.1-48 and included in this article with other provisions on cancelling registrations.

There are now four procedures to cancel the registration of a voter and remove his name from the active registered voter records: (i) voluntary cancellation by the voter; (ii) striking a name when the general registrar knows the voter is no longer qualified, e.g., the registrar is informed by the State Board of a felony conviction); (iii) purging the registration records for failure to vote, a process now implemented by the State Board; and (iv) purging the name of a voter by the general registrar on the basis of an alleged disqualification. These four cancellation methods are set out in this section and the next three sections.

§ 24.2-427. Cancellation of registration for persons known to be deceased or disqualified to vote.—The general registrar shall cancel the registration of (i) all persons known by him to be deceased or disqualified to vote by reason of a felony conviction or adjudication of mental incompetency and (ii) all persons for whom a notice has been received, signed by the voter or the registration official of another jurisdiction, that the voter has moved from the county or city. A voter's registration may be cancelled at any time during the year in which the general registrar discovers that the person is no longer entitled to be registered.

Drafting Note: Provisions in clause (i) are taken from existing § 24.1-46 subdivision (12) concerning the duty of the general registrar to strike the names of persons known to be deceased or disqualified to vote. Under the Constitution, a person is disqualified to vote if he has been convicted of a felony or adjudicated mentally incompetent. Provisions in clause (ii) authorize the general registrar to cancel the registration of any person on receipt of notification that the voter has moved from the general registrar's jurisdiction. The notification may come from the voter or any registration official in Virginia or another jurisdiction. Again, this is a situation where the general registrar knows the person is no longer a qualified voter in his jurisdiction. Existing § 24.1-46 subdivision (12) also requires the general registrar to retain the records of the cancelled registered voter for two years; however, under current practice these records are retained four years. This requirement is stated in proposed § 24.2-435.

~~§ 24.1-60~~ **24.2-428 . Annual purge review of registration rolls records ; notice to voters whose names are to be purged voter whose registration is to be cancelled .—** A. The State Board of Elections shall mail annually to each registered voter who has not voted at least once during four consecutive calendar years a notice, sent to his address on the registration books records , that his name will be removed from the registration books registration will be cancelled if he does not affirm on an enclosed return registration extension application form that he continues to reside at the address shown on the enclosed form and 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 registered voter shall complete and sign the application subject to felony penalties for making false statements pursuant to § 24.2-1016. His signature shall be witnessed by one person who shall also sign the form. The return returned form must be postmarked no later than January 15 in order for the registered voter to remain on the registration books registered . Any registrant so affirming and returning the registered voter who returns the signed application form shall remain registered as long as he votes at least once in the four consecutive years thereafter following the mailing of the notice and is not otherwise disqualified to vote . The name registration of any voter who does not so return the request to remain registered form shall be removed from the registration books by the general registrar cancelled . Failure to receive the notice shall not affect the validity of the purge of the books for not voting in four consecutive years. The registration applications of such purged voters shall be retained thereafter by the general registrar for a period of four years cancellation .

C. The notice of purge intent to cancel shall be mailed annually by first class postage "Do Not Forward" by the State Board of Elections and mailed 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 .

The general registrar shall post at the courthouse or have published in a newspaper of general circulation in his county or city a list of names of persons whose registration has been cancelled pursuant to this section. He shall deliver or mail, obtaining a certificate of mailing, a certified copy of the list to the chairman of each political party in his county or city.

D. [Repealed.]

Drafting Note: The annual purge or review is mandated by Article II, Section 4 of the Constitution, and implemented by existing § 24.1-59 and proposed § 24.2-428. Changes made in § 24.2-428 incorporate the false statement penalty as set out in proposed § 24.2-1016 and references to registration records rather than "books." The annual purge results in the cancellation of the voter's registration. His name and original application remain part of the registration records, but he is longer registered. Provisions requiring the names of voters purged to be posted or published and mailed to chairmen of political parties are taken from existing § 24.1-60 and included in this section. The proof of mailing requirement has been modified so that the general registrar need only obtain a certificate of mailing. Return receipt procedures used in the past were not practicable because of the untimely receipt of mail. The requirement to retain records for four years is stated in proposed § 24.2-435.

~~§ 24.1-60 24.2-429 . Registrar to give notice of names of persons to be purged.—When such books are purged pursuant to the provisions of §—24.1-46 it shall be the duty of the registrar to post at the courthouse a list of the names of all persons who in the judgment of the registrar, or who may be alleged by any three qualified voters of the election district, to be improperly on the registration books of that district. Maintenance of accurate registration records by general registrar; notice and hearing before cancellation.—Whenever a registered voter is alleged to be improperly registered, either by the general registrar or by any three qualified voters of the county or city who make such an allegation to the general registrar, the registrar shall post at the courthouse or to publish such list in a newspaper of general circulation in the jurisdiction his county or city the name of the registered voter on a list of persons whose registrations are to be cancelled by the general registrar. The list shall be certified by the registrar and delivered or sent by certified mail , to the county or city chairman of each political party. If sent by mail, the general registrar shall obtain a certificate of mailing. In addition to the posted or published list, except for those voters purged pursuant to §—24.1-50, the general registrar shall send a notice by mail to the last known address of each registered voter on the list, stating the reasons provided by law for the purge cancellation , the facts on which the purge cancellation is based, and the time or times at which when the registrar, at his office during regular office hours, will hear testimony produced for or against the right of persons named in the notice to be retained on the registration books records . Such The hearings shall be held not less than ten days after the mailing of such the notice, and in no event shall be within sixty days of the general election in November or within thirty days of any other election in such jurisdiction the county or city .~~

~~§ 24.1-61. Hearing by and decision of registrar as to such names.— At the time or times stated in the notice hearing, the registrar shall hear the testimony produced ; and if he be satisfied that any person mentioned shall determine if the registered voter named in the notice has removed from the election district, has died, or for any reason is not entitled to be on the registration books of the precinct, he is qualified to vote in the county or city.—If the person is no longer qualified to vote, the registrar shall strike his name from the registration books cancel the voter's registration . Nothing herein contained in this section shall prevent the registered voter from applying to the general registrar for a transfer to his proper precinct jurisdiction , provided the registration books or records are not closed as provided by law. The general registrar may continue the hearing for a period of not more than thirty days in order to complete his examination. If any the registered voter so challenged fails to appear and defend his right to be retained on the registration books of the precinct registered , his name shall be stricken therefrom registration shall be cancelled by the general registrar.~~

Drafting Note: Existing §§ 24.1-60 and 24.1-61 on notice and hearing for persons whose registration is challenged are included in this section. The registration of a voter may be challenged by either (i) the registrar who suspects that a registered voter is improperly registered or (ii) any three qualified voters of the county or city. Current law provides procedures to give the challenged voter notice and a hearing before the registrar. A list of persons to be purged is mailed to the chairman of each political party. Proof of mailing is accomplished by the general registrar who must obtain a certificate of mailing. If the challenged voter does not appear at the hearing or if the general registrar determines the voter is not qualified to vote, then the person's registration is cancelled. Nothing in this section prevents a person from transferring his registration to the proper jurisdiction provided the registration records are not closed.

~~§ 24.1-62 24.2-430 . Appeal from decision of registrar as to purging .— From the decision of the registrar whereby any person is stricken or purged from the registration books, such person shall have the right of appeal, as provided in §—24.1-67, and from the decision of the registrar refusing to strike or purge from the registration books any person alleged to be improperly on the registration books, any qualified voter of the county or city shall have the like right of~~

~~appeal.~~ Any person whose registration was cancelled in accordance with the decision of the general registrar pursuant to § 24.2-429, shall have the right of appeal, as provided in § 24.2-422, to the circuit court of the county or city in which he offers to register. Any qualified voter of the county or city shall have the same right of appeal from the decision of the general registrar refusing to cancel the registration of any person alleged to be improperly registered.

Drafting Note: No change in substance except the term cancel is substituted for stricken and purged.

§ ~~24.1-63~~ 24.2-431 . Petition to court objecting to registration.—In addition to the method of purging the registration books prescribed in §§ ~~24.1-50 to 24.1-62~~ challenging a voter's registration before the general registrar , any three qualified voters in any election district may file with the court of record where deeds are recorded of the county or city wherein the election district is located circuit court of the county or city in which they are registered , a petition setting forth stating the their objections of the petitioners to the registration of any person whose name is on such the registration books records for their county or city .

Drafting Note: Revisions clarify that this section is an additional procedure to the hearing before the registrar and may be initiated by any three qualified voters of the county or city where the challenged voter is registered.

§ ~~24.1-64~~ 24.2-432 . Notice to person objected to and decision of court.—Fifteen days' notice shall be given by the petitioners to the any person or persons whose registration is objected to pursuant to § 24.2-431 , and the court shall summarily proceed to determine the right of such the person or persons to registration. Such The determination shall be without the necessity of formal pleadings and in preference to all other matters on the docket. An order of the court concerning registration of the voter shall not be limited by the provisions of § ~~24.1-50~~ 24.2-416 requiring the registration books records to be closed.

Drafting Note: No change in substance. Language is added to clarify that the petitioners must give the fifteen days' notice.

§ ~~24.1-65~~ 24.2-433 . Appeal from decision of court.—From the judgment of the court , an appeal shall lie, as a matter of right, to the Supreme Court of Virginia . and such The appeal shall be placed upon on the privileged docket and be heard at the next ensuing session of the court.

Drafting Note: No change in substance.

§ ~~24.1-66~~ 24.2-434 . Presumption if petition not brought within six months of registration.—Unless the petition provided for in § ~~24.1-63~~ 24.2-431 is filed within six months after the registration of any person, it shall be conclusively presumed in all proceedings where the right of such person to registration arises, by election officers and by judicial tribunals, or in election contests of any kind and character, that such person has complied with all the procedural requirements of the law in making an application for registration .

Drafting Note: Specific language is added to the last sentence to clarify that once a person has been registered for six months there is a conclusive presumption that the administrative acts required in registering the person were conducted properly. Certain administrative acts are required to be performed when a person is registered, e.g., submission of a written application. The predecessor of § 24.1-66 provided a comprehensive list of these administrative and ministerial acts which could not be challenged after a person had been registered for six months or longer. At the time of the revision of Title 24, some of these acts had become outdated. The Commission deleted the list of acts and stated in its drafting note that unnecessary detail had been deleted. When the Commission deleted this language, it became unclear if other requirements of the law in addition to administrative acts were subject to the conclusive presumption. It appears that the intention of the Commission was not to preclude challenges to a person's qualifications to vote, e.g., an allegation that the registered voter is a convicted felon. Proposed § 24.2-434 clarifies that the presumption only reaches challenges to the technical aspects of registering and not to challenges to the qualifications of the voter before or after registering.

§ 24.2-435. Cancellation records to be retained for four years.—The registration records of

voters whose registration has been cancelled pursuant to this article shall be retained for four years from the date of cancellation by the general registrar.

Drafting Note: This section combines and revises existing provisions on the required length of time to keep records concerning cancellations. The current practice is to retain these records four years in a separate cancelled records file. This revision eliminates a discrepancy in current law which specifies a two-year requirement for registrations cancelled on the basis of official reports and a four-year requirement for purged registrations. Compare § 24.1-46 (12) and § 24.1-59.

Article 6.

Temporary Registration for Presidential Elections.

~~§ 24.1-72.1~~ 24.2-436 . ~~Persons eligible~~ Eligibility for temporary registration.—Any person who is qualified to vote in this Commonwealth in a presidential election, shall be eligible for temporary registration under this chapter, article to vote only in such a presidential election and only for electors of President and Vice-President of the United States.

Drafting Note: No change in substance. Existing Chapter 5.1 (§ 24.1-72.1 et seq.) contains two articles which are set out as Articles 6 and 7 in this chapter. These two articles implement two special temporary registration procedures mandated by federal law and applicable to presidential elections in one case (proposed Article 6) and to all federal elections in the other case (proposed Article 7).

Proposed Article 6 implements the requirements of 42 U.S.C. § 1973aa-1 (enacted as part of the 1970 Voting Rights Act). The federal law provides that all qualified persons must be able to register absentee for the presidential election up to 30 days prior to the election. The federal law overrides the in-person registration requirement of Article II, Section 2 of the Virginia Constitution and mandates registration by mail as an option for the presidential election. Since absentee registration would not be allowed except for the federal law requirement, separate registration records are maintained, and the registration lapses after the presidential election.

~~§ 24.1-72.2~~ 24.2-437 . Application for temporary registration.—Any person intending to register and vote under the provisions of this article shall apply in person or by mail to the registrar of the county or city of his residence at least thirty days prior to the presidential election. ~~Such~~ The application shall be on a form prescribed by the State Board of Elections , shall be signed by the applicant under oath, and shall contain who shall provide, subject to felony penalties for making false statements pursuant to § 24.2-1016, the following information : required for registration under § 24.2-418 and the applicant's immediate previous place of abode and address.

(1) Full name of applicant, including maiden name if married woman;

(2) Age;

(3) Place and date of birth;

(4) Marital status;

(5) Occupation;

(6) Social Security number, if any;

(7) Whether the applicant is presently a United States citizen;

(8) Present address and place of abode;

(9) Length of residence in the Commonwealth and in the precinct;

(10) Immediate previous place of abode and address;

(11) Place and time of any previous registration to vote; and

(12) Whether the applicant has ever been convicted of a felony or adjudicated mentally incompetent, and, if so, under what circumstances the applicant's right to vote has been restored.

~~(12), (14) [Repealed.]~~

Drafting Note: The list of information to be provided by the applicant is stricken and replaced by a cross-reference to § 24.2-418 which spells out the contents of the application for registration. Information pertaining to an applicant's immediate previous place of abode and address subdivision (10) is retained because this information is used to advise other states where the person may still be registered to cancel his registration. Information regarding length of residence, marital status, and occupation is not required by the Constitution or under federal law; therefore, the requirement to provide this information has been deleted. A sentence is added to clarify that a material false statement by the applicant will subject him to prosecution under proposed § 24.2-1016.

~~§ 24.1-72.3 24.2-438 . Books and lists Registration records to be maintained by general registrars; when registration permitted; lapse of registration.— It shall be the duty of the general registrar to The general registrar shall maintain and make available in the manner prescribed by Chapter 5 (§ 24.1-41 et seq.) of this title for inspection by any registered voter the applications for temporary set of books registration for each election district within his jurisdiction ; and separate lists for each precinct of persons registering to vote in the presidential election. Registration under this article shall be permitted from six months in advance of the presidential election ; until the end of the regular registration day prescribed in § 24.1-40 registration records are closed pursuant to § 24.2-416 . After the presidential election, registration under this chapter article shall lapse and be no longer be valid. No person registered under this article shall be entitled to vote in any subsequent election without registering again under the provisions of this title.~~

Drafting Note: No change in substance. The terms "registration records" and "precinct" are used to be consistent with proposed definitions for Title 24.2. The manner in which temporary registration records are maintained by the general registrar is clarified. The reference to the chapter on registration is no longer appropriate since the chapter includes provisions on the Virginia voter registration system which is only used in maintaining permanent registration records. The deadline for registration is restated to refer to the closing of registration records rather than to the "final day" for clarity. The final sentence is deleted because it is repetitive of the preceding sentence.

~~§ 24.1-72.4 24.2-439 . Separate ballots for persons registered under this article.—The officers of election shall deliver to any person registered under this article who offers to vote in the presidential election a separate ballot for electors of President and Vice-President of the United States and no other ballot . Such ballots The ballot shall be voted, handled , and counted with other like ballots in accordance with the provisions of this title.~~

Drafting Note: No change in substance.

Article 7.

Temporary Absentee Registration for Federal Elections.

~~§ 24.1-72.10. [REPEALED] Purpose: It is the purpose of this article to implement the Uniformed and Overseas Citizens Absentee Voting Act, 42 U.S.C. § 1973ff et seq.~~

Drafting Note: This provision has not been set out in the Code because of the Code Commission policy not to publish "purpose" provisions. It is repealed because the substance is addressed in proposed § 24.2-440 which provides temporary registration procedures for persons entitled to register and vote in federal elections under the Uniformed and Overseas Citizens Absentee Voting Act.

~~§ 24.1-72.11. [REPEALED] Definitions.—For the purposes of this article, the term:~~

~~1. "Federal election" means any general, special, or primary election held solely or in part for the purpose of selecting, nominating, or electing any candidate for the office of President, Vice-President, presidential elector, member of the United States Senate or member of the United States House of Representatives; and~~

~~2. "United States" includes the several states, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, and American Samoa but does not include the Canal Zone, the Trust Territory of the Pacific Islands, or any other territory or possession of the~~

United States.

Drafting Note: This section is repealed. The definition of federal election appears in proposed § 24.2-440. The definition of United States in existing § 24.1-72.11 no longer parallels the definition used in the 1986 Uniformed and Overseas Citizens Absentee Voting Act and is deleted. That Act requires states to provide absentee registration procedures for defined categories of absent uniformed services members and overseas citizens. The mandate of the Act goes further than both the absentee permanent registration permitted under Article II, Section 4 of the Virginia Constitution and provided by proposed § 24.2-419, and the absentee temporary registration provided by existing § 24.1-72.12. Proposed Article 7 provides for implementing the mandates of the federal Act not covered by current state law.

~~§ 24.1-72.12~~ **24.2-440 . Persons eligible** *Eligibility* for temporary registration by absentee application.— ~~Any citizen of the United States shall be eligible to register by absentee application and vote absentee by mail in any federal election in any county or city in this Commonwealth pursuant to this article provided that:~~

1. He is a United States citizen who will be at least eighteen years of age by the day of the election;

2. He is residing outside the United States

3. He states whether or not he has a valid passport or card of identity and registration issued under the authority of the Secretary of State of the United States;

4. He does not maintain a domicile and is not registered to vote in any other state, territory or possession of the United States or in any other county or city in Virginia than the county or city in which he seeks to register pursuant to this article;

5. His last place of abode and domicile immediately prior to his departure from the United States was in this Commonwealth. Any person who is entitled to register to vote in federal elections under the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff et seq.) and is not eligible for permanent voter registration pursuant to Article 4 of this chapter, shall be eligible for temporary registration under this article to vote in any federal election. Federal elections include any general, special, or primary election for President, Vice-President, presidential electors, or a member of the United States Senate or House of Representatives.

Drafting Note: Proposed § 24.2-440 expands the provisions of § 24.1-72.12 to cover persons entitled under the Uniformed and Overseas Citizens Absentee Voting Act to absentee registration for federal elections, who are not qualified under Virginia's Constitution for permanent registration by absentee application. The list of qualifications required of the applicant and the definition of United States are covered in the federal Act and are not repeated in proposed § 24.2-440.

~~§ 24.1-72.13~~ **24.2-441 . Application for temporary registration.**—Any person intending to register and vote under the provisions of this article shall apply by mail to the State Board of Elections or to the general registrar of the county or city in which he wishes to vote at least thirty days prior to the federal election. ~~Such~~ The application shall be on a form prescribed or approved by the State Board of Elections ; . The application shall be signed by the applicant under oath, and who shall contain—provide, subject to felony penalties for making false statements pursuant to § 24.2-1016, the following information : required for registration under § 24.2-418, the applicant's resident address of previous domicile in Virginia and date of departure from this domicile, if applicable, and any information necessary to implement the Uniformed and Overseas Citizens Absentee Voting Act (42 U.S.C. § 1973ff et seq.).

1. Full name of applicant, including maiden name if married woman;

2. Age;

3. Place and date of birth;

4. Marital status;

5. Occupation;

6. Social security number, if any;

7. Whether the applicant is presently a United States citizen and holds a valid United States passport or card of identity and registration issued under the authority of the Secretary of State of the United States;

8. Present address and place of abode;

9. Resident address of previous domicile in Virginia and date of departure;

10. Place and time of any previous registration to vote; and

11. Whether the applicant has ever been convicted of a felony or adjudicated mentally incompetent, and, if so, under what circumstances the applicant's right to vote has been restored.

Drafting Note: The list of information to be provided by the applicant is stricken and is replaced by a cross-reference to § 24.2-418. Information pertaining to an applicant's previous Virginia domicile in subdivision (9) is retained because under the federal Act a person who does not have a current domicile in the United States may be entitled to register in the state of his previous domicile. The information in subdivisions 4, 5, and 7 is no longer required by the Virginia constitution or federal law, and these items are deleted. A saving clause is provided in case changes in the federal law require additional information from the applicant. Applications for temporary registration are handled directly by the general registrars and so the reference to the State Board is deleted. Language is added to clarify that the State Board is given authority to approve the use of the Federal Post Card Application prescribed pursuant to 42 U.S.C. § 1973ff (b) as the application for temporary registration. The Federal Post Card Application is currently so approved and is also authorized by law for use as a permanent absentee application. A sentence is added to clarify that a person who provides material false information on the application is subject to prosecution pursuant to proposed § 24.2-1016.

~~§ 24.1-72.14~~ 24.2-442 . Books and lists Registration records to be maintained by registrars; when registration permitted; lapse of registration.— It shall be the duty of the The general registrar to shall maintain and make available in the manner prescribed by Chapter 5 (§-24.1-41 et seq-) of this title a for inspection by any registered voter the applications for temporary set of books registration for each election district within his jurisdiction ; and separate lists for each precinct of persons registering to vote in the federal election. Registration under this article shall be permitted from six months in advance of the federal election ; until the end of the regular registration day prescribed in §-24.1-40 registration records are closed pursuant to § 24.2-416 . After the federal election, registration under this chapter article shall lapse and be no longer be valid. No person registered under this article shall be entitled to vote in any subsequent election without registering again under the provisions of this title.

Drafting Note: The terms "registration records" and "precinct" are used to be consistent with proposed definitions for Title 24.2. The reference to the closing of the registration records is more apt and is substituted for the reference to the final registration day so as to cover special as well as general or primary elections. The reference to the registration chapter is deleted because it includes provisions on the Virginia voter registration system which is not utilized in maintaining temporary registration records. Otherwise, there is no change in substance. The final sentence is deleted because it is repetitive of the preceding sentence.

~~§-24.1-72.15~~ 24.2-443 . Absentee ballots for persons registered under this article.— It shall be the duty of the general registrar ; in In accordance with instructions provided by the State Board of Elections , to the general registrar shall provide ballots to any person registering under this article the ballot to vote absentee by mail to persons registering to vote pursuant to the provisions of this article provided that such ballots shall be only for the federal elections. Such election and no other ballot . The absentee ballots shall be voted by mail, handled , and counted with other absentee ballots voted by mail in accordance with the provisions of this title provided that such ballots shall be counted; if received by mail, by the appropriate election official not later than the time of closing the polls on the day of the election .

Drafting Note: No change in substance. Superfluous language is deleted and the language is simplified.

Article 8.

Registration Records Generally.

~~§ 24.1-56 24.2-444 . Books~~ *Registration records open to public inspection.*—Registration ~~books records~~ shall be kept and preserved by the general registrar and shall be opened to the inspection ~~of by any qualified registered voter~~ at the office of the *general registrar* when the office is open for business. ~~In addition, such book~~ *The registration records* shall be available for inspection ~~upon by appointment, which appointment made by the general registrar shall make for all for any reasonable times time requested. In any event, such books shall be available at additional days and times fixed by the secretary of the electoral board.~~

Drafting Note: The term “records” replaces the term “books.” The offices of general registrars are now open on a five-day per week basis year-round except in counties and cities of less than 10,000 population where offices are open three days per week January through July and five days August through December. The appointment provisions and additional days and times set by the secretary of the electoral board are not as necessary as they were when the offices were open one day a week or less frequently. However, the appointment provisions are retained to give both the general registrar and registered voters flexibility to schedule inspections of the records at reasonable times.

~~§ 24.1-28 24.2-445 . Preservation of existing books and records;~~ *Registration records controlling in event of conflict.*— ~~The existing voter registration and voting books and records shall be preserved for not less than five years after the establishment of the central registration roster and in the event of a dispute concerning the question of whether a person is registered to vote determination shall be made from the existing local registration and voting records.~~

~~Upon the establishment of the central registration roster, in~~ *In the event of a conflict as to whether a person is registered to vote, the electoral board's or registrar's registration and voting records, in the possession of the general registrar including the application to register, shall be controlling.*

Drafting Note: The first paragraph of existing § 24.1-28 is deleted. It has become obsolete since the Virginia voter registration system has been in place for more than five years. The second paragraph is retained and reworded to clarify that the registration records in the possession of the general registrar shall be controlling in determining the registration status of a person. These records include the original application for registration and other voting and registration records which the general registrar maintains separately from the central registration records maintained in the Virginia voter registration system.

~~§ 24.1-58 24.2-446 . Reconstruction of destroyed registration books records .~~—Whenever the registration ~~books records of a county or city~~ have been destroyed by fire or otherwise, ~~the electoral board shall instruct the State Board shall provide substitute active registration records obtained from the Virginia voter registration system the general registrar to proceed forthwith to reconstruct such registration books .~~

~~The~~ *For active registration records not retrievable from the system, the general registrar shall give notice that he is reconstructing such books records by posting the notice at ten places in the jurisdiction or publication publishing it once in a newspaper having general circulation in the jurisdiction.*

~~In such the reconstruction , the registrar shall place upon on the registration books or records the names of all voters known by him who have been previously registered, or who can show by evidence satisfactory to the registrar that their names were on the old books, records and who still reside in such election district the county or city .~~

Drafting Note: Existing § 24.1-58 is revised to clarify that the provision relating to the destruction and reconstruction of registration books pertains to the registration records maintained in the registrar's office. The general registrars receive substitute registration records for their jurisdictions from the State Board through data obtained from the Virginia voter registration system. If the registrar's records were destroyed before information was entered into the system, the registrar is required to reconstruct these records as provided in existing § 24.1-58. Certain procedures are required to be followed in reconstructing the records including adequate notice in the registrar's jurisdiction.

~~§ 24.1-60 24.2-447 . Persons registered prior to this title.~~—Any person validly registered to vote as of December 1, ~~1970~~ 1993 , shall continue to be registered subject to the provisions of this title.

Drafting Note: New date has been inserted reflecting the effective date of the title revision.

CHAPTER 5.

CANDIDATES FOR OFFICE.

Chapter Drafting Note: Proposed Chapter 5 is based largely on existing Articles 4 and 5 of Chapter 7 of Title 24.1. Proposed Article 1 states the qualifications and requirements which apply to all candidates for election. Existing sections are reorganized for clarity but substantive requirements are unchanged.

The next three proposed articles address how candidates are to be selected and qualify, beginning with the procedures for independent candidates in proposed Article 2. Proposed Article 3 states the general powers of political parties and the right of each to determine the method of nominating its candidates, and provides without substantive change the procedures for nominating and certifying candidates by means other than a primary.

Proposed Article 4, the lengthiest of the articles, is devoted to the conduct of primaries. While there are not a large number of substantive changes, parts of the existing law are outdated and have been revised in the proposed article. The thrust of the changes is to clarify what is deemed a primary for the purposes of state law and when candidates may be nominated under the official state primary system. In brief, primaries may be held only on the specified day in June or March, and parties can nominate by primary for special elections only if the primary can be scheduled on a regular primary date. Procedures by which parties nominate by informal elections, whether known as "firehouse primaries" or by some other name, are not deemed official state-sponsored primaries.

The right of a political party to nominate another candidate if its original nominee dies or withdraws, and of other parties to nominate and independents to file in that event, is retained in proposed Article 5. Finally, proposed Article 6 addresses nominations for presidential elections. The only substantive change is to allow qualified third parties to name a new candidate upon the death or withdrawal of either of its candidates, just as the two major parties are allowed to do under existing law.

Article 1.

Qualifications and Requirements of All Candidates.

~~§ 24.1-167 24.2-500 . Qualification of candidates ; filing statements of financial interest and of qualifications; person entitled to have name printed on ballot —In order to qualify as a candidate for any office of the Commonwealth, or of its governmental units, a person must be qualified to vote for and hold that office. In order to hold any office of the Commonwealth or its governmental units, elective by the people, the candidate must have been a resident of the Commonwealth for one year next preceding his election and be qualified to vote for that office .~~

~~It shall be a requirement of candidacy that a written statement of financial interests shall be filed by a candidate for Governor, Lieutenant Governor or Attorney General with the Secretary of the Commonwealth; by a candidate for Senate or House of Delegates with the clerk of the appropriate house; by a candidate for a constitutional office with the general registrar for the county or city; and by a candidate for member of the governing body of any county, city, or town with a population in excess of 2,500 persons with the general registrar for such county, city, or town. The statement of financial interests shall be that specified in §-2.1-630.41 for candidates for the General Assembly and in §-2.1-630.15 for all other candidates. The foregoing requirement shall not apply to a candidate for reelection to the same office provided that he has met the requirement of annually filing a statement pursuant to §§-2.1-630.13, 2.1-630.14 or § 2.1-630.40. The Secretary of the Commonwealth, each clerk, including the clerk of the local governing body with respect to statements filed with him pursuant to §-2.1-630.14 A, and each general registrar shall transmit to the State Board of Elections, immediately after the filing deadline established hereinafter, a list of the candidates, both for election and reelection, who have filed statements of financial interests; and the Secretary of the State Board shall advise the appropriate local electoral boards of the filings.~~

§ 24.2-501. *Statement of qualification as requirement of candidacy.*— It shall be a requirement of candidacy for any office of the Commonwealth, or of its governmental units, that a person must file a written statement under oath, on a form prescribed by the State Board of Elections , that he is qualified to vote for and hold the office for which he is a candidate. Every candidate for election to statewide office, the United States House of Representatives, or

the General Assembly shall file the statement with the State Board of Elections . Every candidate for any other office shall file the statement with the general registrar of the county or city where he resides. Each general registrar shall transmit to the State Board, immediately after the filing deadline established hereinafter , a list of the candidates ; both for election and reelection, who have filed such statements of qualification.

~~Both such written statements shall be filed by primary candidates not later than the filing deadline for the primary; by all other candidates for city and town councils not later than 7:00 p.m. on the first Tuesday in March; by candidates in special elections by the time of qualifying as a candidate; and by all other candidates not later than 7:00 p.m. on the second Tuesday in June.~~

~~Any statement required to be filed pursuant to this section shall be deemed to be timely filed if it is mailed postage prepaid to the appropriate office by registered or certified mail and if the official receipt therefor be exhibited on demand and it shows mailing within the prescribed time limits.~~

~~The State Board of Elections may grant an extension of any deadline set forth herein for filing either or both written statements and shall notify all candidates of the extension who have not filed their statements. Any extension shall be granted for a fixed period of time of ten days from the date of the mailing of the notice of the extension.~~

~~Only a person fulfilling all the requirements of a candidate shall have his name printed on the ballot provided for in the election.~~

Drafting Note: No change in substance. Existing § 24.1-167 is divided into five proposed sections and the language shown as stricken is incorporated into proposed §§ 24.2-502, 24.2-503, and 24.2-504 which follow.

§ 24.2-502. Statement of economic interests as requirement of candidacy.—It shall be a requirement of candidacy that a written statement of economic interests shall be filed by (i) a candidate for Governor, Lieutenant Governor, or Attorney General with the Secretary of the Commonwealth, (ii) a candidate for Senate or House of Delegates with the clerk of the appropriate house, (iii) a candidate for a constitutional office with the general registrar for the county or city, and (iv) a candidate for member of the governing body or elected school board of any county, city, or town with a population in excess of 3,500 persons with the general registrar for the county or city. The statement of economic interests shall be that specified in § 2.1-639.41 for candidates for the General Assembly and in § 2.1-639.15 for all other candidates. The foregoing requirement shall not apply to a candidate for reelection to the same office who has met the requirement of annually filing a statement pursuant to §§ 2.1-639.13, 2.1-639.14, or 2.1-639.40.

The Secretary of the Commonwealth, the clerks of the Senate and House of Delegates, the general registrar, and the clerk of the local governing body shall transmit to the State Board, immediately after the filing deadline, a list of the candidates who have filed initial or annual statements of economic interests. The Secretary of the State Board shall notify the appropriate local electoral boards of the filings.

Drafting Note: Proposed § 24.2-502 is taken from existing § 24.1-167 without substantial change, except that elected school boards are included. The term “economic interests” rather than the existing “financial interests,” is used to reflect the nomenclature now used in the cross-referenced sections of Title 2.1.

§ 24.2-503. Deadlines for filing required statements; extensions.—The written statements of qualification and economic interests shall be filed by (i) primary candidates not later than the filing deadline for the primary, (ii) all other candidates for city and town offices by 7:00 p.m. on the first Tuesday in March, (iii) candidates in special elections by the time of qualifying as a candidate, and (iv) all other candidates by 7:00 p.m. on the second Tuesday in June.

A statement shall be deemed to be timely filed if it is mailed postage prepaid to the appropriate office by registered or certified mail and if the official receipt therefor, which shall be exhibited on demand, shows mailing within the prescribed time limits.

The State Board may grant an extension of any deadline for filing either or both written statements and shall notify all candidates who have not filed their statements of the extension. Any extension shall be granted for a fixed period of time of ten days from the date of the

mailing of the notice of the extension.

Drafting Note: Proposed § 24.2-503 is taken from existing § 24.1-167 without substantial change.

§ 24.2-504. *Persons entitled to have name printed on ballot.- Only a person fulfilling all the requirements of a candidate shall have his name printed on the ballot for the election.*

Drafting Note: Proposed § 24.2-504 is taken from existing § 24.1-167 with stylistic changes only.

Article 2.

Independent Candidates.

§ ~~24.1-166~~ 24.2-505 . *Notice Declaration of candidacy required of nonparty independent candidates ; schedule for giving notice and for party nominations other than by primary .—A. Any person, other than a candidate for a party nomination or a party nominee, who intends to be a candidate for any office ; to be elected by the qualified voters of the Commonwealth at large or of a congressional district ; shall ~~notify~~ file a declaration of candidacy with the State Board of Elections, in writing, by filing a declaration of candidacy , on a form prescribed by the State Board of Elections , attested by two witnesses who are qualified voters of the election district or acknowledged before some officer authorized to take acknowledgments to deeds, of his intention, designating the office for which he is a candidate. The written notice declaration shall be attested by two witnesses who are qualified voters of the Commonwealth or of the congressional district, or acknowledged before some officer authorized to take acknowledgments to deeds. The declaration shall be signed by the candidate, but if he be is incapable of writing his proper signature then some mark adopted by him as his signature shall be acknowledged before some officer authorized to take acknowledgments to deeds and in the same manner .*

On receipt of the notices required hereby the The State Board of Elections shall notify the respective secretaries of the appropriate electoral boards of the election district of the candidacy of each of such persons; which notices shall be forwarded by the State Board of Elections immediately after the expiration of the period during which candidates may give notice of their candidacy as prescribed hereby of the qualified candidates who have so filed .

B. Any person , other than a candidate for a party nomination or party nominee, who intends to be a candidate for election to the General Assembly ; shall give notice to file a declaration of candidacy with the clerk of the circuit court of the county or city where he resides ; which notice . The declaration shall be in all respects the same as that required above by this section to be given to the State Board of Elections by statewide and congressional district candidates . Such The clerk shall, within three days after the receipt of receiving the notice and petitions declaration , deliver it in person or transmit it by certified mail such notices , and along with the petitions required by § ~~24.1-168~~ 24.2-506 or copies thereof, to the secretary or secretaries of the electoral boards general registrars of the counties or cities whose electors vote for such office, and he in the legislative district for delivery to the secretaries of the electoral boards. He shall transmit the names of the candidates who have filed with him to the State Board of Elections immediately after the filing deadline.

C. Any person , other than a candidate for a party nomination or party nominee, who intends to be a candidate at any election for any other office ; shall give notice to file a declaration of candidacy with the general registrar of the county or city where he resides ; which notice . The declaration shall be in all respects the same as that required above by this section to be given to the State Board of Elections by statewide and congressional district candidates . The general registrar shall, within three days after the receipt of receiving the notice and petitions declaration , deliver it in person or transmit it by certified mail such notices , and along with the petitions required by § ~~24.1-168~~ 24.2-506 or copies thereof, to the secretary or secretaries of the electoral boards of the counties or cities whose electors vote for such the office ; and he . He shall transmit the names of the candidates who have filed with him to the State Board immediately after the filing deadline.

D. If requested in writing by a candidate filing pursuant to subsections B or C , the secretary of the electoral board shall notify him of any irregularity in the notice declaration or petitions which can be corrected prior to the filing deadline.

B. For any office, notice of candidacy by nonparty candidates shall be filed and nominations

by political parties, other than by primary, shall be made and completed in the manner prescribed by law according to the following schedule:

1. For a general election in November, at or before the time fixed for the closing of the polls on the second Tuesday in June next preceding the election for such offices, provided that no political party shall so nominate by means other than a primary more than thirty two days prior to such Tuesday

2. For a general election in May, at or before the time fixed for the closing of the polls on the first Tuesday in March next preceding the election for such offices, provided that no political party shall so nominate by means other than a primary more than thirty two days prior to such Tuesday.

3. For a special election:

a. At least seventy four days before a special election held at the same time as a November general election, or where the writ of election issued pursuant to § 24.1-76 directs that a special election be held at the second ensuing general election, at or before the time fixed for the closing of the polls on the second Tuesday in June next preceding such election; or

b. At or before the time fixed for the closing of the polls on the first Tuesday in March for a special election held at the same time as a May general election or pursuant to § 15.1-1054; or

c. If it be a special election called by the Governor, Speaker of the House of Delegates, President of the Senate, or pursuant to § 24.1-70, or pursuant to law at a time other than a general election, at least thirty days before the election or within five days of any writ of election or order calling a special election to be held less than thirty five days after the issuance of the writ or order.

Drafting Note: No change in substance. The requirement in subsection A for "immediate" notification by the State Board is reworded and simplified. The notification is made after petitions and other filings are verified. See, also, proposed § 24.2-511. Under proposed subsection B, the clerk is directed to transmit the declaration and petitions to the general registrars who verify the petitions. Under current administrative procedures, the petitions are given to the general registrars by the electoral boards for verification and then returned to the boards. The provisions of stricken subsection B are included in proposed § 24.2-507.

~~§ 24.1-168~~ 24.2-506 . When petition *Petition* of qualified voters required; number of signatures required ; *certain towns excepted* .—The name of any candidate for any office , other than a party nominee ~~nominated by such method as his political party has chosen for nominating candidates~~ , shall not be printed upon any official ballots provided for the election ; unless he shall file along with his ~~notice~~ *declaration* of candidacy a petition therefor, on a form prescribed by the State Board of Elections , signed by the number of qualified voters specified below after January 1 of the year in which the election is held and listing the residence address of each such ~~qualified~~ voter ; ~~each~~ . *Each signature to which has on the petition shall have been* witnessed by a person who is himself a qualified voter for the office for which he is circulating the petition and, in the case of a statewide office, is 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.

Each voter signing the petition shall provide on the petition his social security number, if any; provided noncompliance with this requirement shall not be cause to invalidate the voter's signature on the petition.

The minimum number of signatures of qualified voters required for candidate petitions shall be as follows:

1. For a candidate for the United States Senate, Governor, Lieutenant Governor, or Attorney General, a number equal to one-half of one percent of the number of voters registered in the Commonwealth as of January 1 of the year in which the petition must be filed and including at least 200 qualified voters from each congressional district in the Commonwealth;

2. For a candidate for the United States House of Representatives, a number equal to one-half of one percent of the number of voters registered in the congressional district as of January 1 of the year in which the petition must be filed;

3. For a candidate for the Senate of Virginia, 250 signatures;

4. For a candidate for the House of Delegates ; or for a constitutional office, ~~or for membership on the governing body of any county, city, or town,~~ 125 signatures;

5. For a candidate for membership on the governing body *or elected school board* of any county ; or city, ~~or town~~ 125 signatures; or if from an election district *not at large* containing 1,000 or fewer registered voters, 50 signatures;

6. For a candidate ~~running from a ward or other district not at large~~ for membership on the governing body *or elected school board* of any town ~~which has more than 1,500 registered voters,~~ 25 125 signatures ; or if from a ward or other district *not at large*, 25 signatures ; and

~~7.~~ 7. For membership on the governing body or elected school board of any town which has 1,500 or fewer registered voters, no petition shall be required; and

8. For any other candidate, 50 signatures.

A candidate for office in a town which has 1,500 or fewer registered voters shall not be required to file a petition under this section.

Drafting Note: The petition requirement provisions have been rearranged for greater clarity but no substantive change in the requirements is involved.

§ 24.2-507. *Deadlines for filing declarations and petitions of candidacy.*—For any office, declarations of candidacy and the petitions therefor shall be filed according to the following schedule:

1. For a general election in November, by 7:00 p.m. on the second Tuesday in June;

2. For a general election in May, by 7:00 p.m. on the first Tuesday in March;

3. For a special election held at the same time as a November general election, either (i) at least 74 days before the election or (ii) if the special election is being held at the second November election after the vacancy occurred, by 7:00 p.m. on the second Tuesday in June before that November election;

4. For a special election held at the same time as a May general election, by 7:00 p.m. on the first Tuesday in March; or

5. For a special election held at a time other than a general election, (i) at least thirty days before the election or (ii) within five days of any writ of election or order calling a special election to be held less than thirty-five days after the issuance of the writ or order.

Drafting Note: Proposed § 24.2-507 is taken from existing § 24.1-166 without substantive change. The times of the deadlines are stated as “7:00 p.m.” etc. in the same style as proposed § 24.2-503 and existing § 24.1-167.

Article 3.

Nominations of Candidates by Political Parties.

~~§ 24.1-172~~ 24.2-508 . Powers of political parties in general ; ~~nomination by method other than direct primary~~ .—Each political party shall have the power to (i) make its own rules and regulations, (ii) call conventions to proclaim a platform , ~~or ratify a nomination, or for any other purpose, and perform all functions inherent in such organizations.~~

~~Each party shall have the power to (iii) provide for the nomination of its candidates, and including the nomination and election of its candidates for office in case of any vacancy, and (iv) provide for the nomination and election of its state, county or , city committee , except (i) that the , and district committees, and (v) perform all other functions inherent in political party organizations.~~

§ 24.2-509. *Party to determine method of nominating its candidates for office; exceptions.*—A. The duly constituted authorities of the state political party shall have the right to determine the method by which a party nomination for a member of the United States Senate or for any statewide office shall be made. The duly constituted authorities of the political party for the district, county, city, or town in which any other office is to be filled shall have the right to

determine the method by which a party nomination for that office shall be made.

B. Notwithstanding subsection A, the following provisions shall apply to the determination of the method of making party nominations. A party shall choose to nominate its candidate for election for a General Assembly district where there is only one incumbent of such that party for such the district by the method designated by such that incumbent, or absent any designation by him by the method of nomination determined by the party ; ~~(ii) that no~~ . A party shall choose to nominate its candidates for election for a General Assembly district where there is more than one incumbent of such that party for such the district by any method other than by a primary without the consent of unless all such the incumbents ; provided that if there are no incumbents as candidates under clause (i) or (ii) hereof then the party shall determine the consent to a different method of nomination ; and ~~(iii) that no~~ . A party which , whose candidate at the immediately preceding election for a particular office other than the General Assembly (i) was nominated its candidate for such office by a primary ; or such candidate filed for a primary but was not opposed ; and such nominee (ii) was elected at the general election, shall choose to nominate a candidate for the next election for such that office by any method other than by a primary ; without the consent of unless all incumbents of the same that party for such that office consent to a different method .

When, under any of the foregoing provisions, no incumbents offer as candidates for reelection to the same office, the method of nomination shall be determined by the political party.

For the purposes of this section subsection , any officeholder who offers for reelection to the same office shall be deemed an incumbent notwithstanding that the district which he represents differs in part from that for which he offers for election.

A party selecting a nominee for any office by any method other than by direct primary, shall only do so within thirty-two days, and no more, immediately preceding the regular primary date established for purposes of nominating candidates for the office in question. This limitation shall, however, have no effect on nominations either for special elections or pursuant to § 24.1-107.

Drafting Note: Existing § 24.1-172 is divided into proposed § 24.2-508 and 24.2-509 without substantive change. Subsection A of proposed § 24.2-509 is taken from existing § 24.1-171 and inserted here with stylistic changes only. The last paragraph of existing § 24.1-172 is deleted because the provision will now be found in proposed § 24.2-510 (deadlines for nominations).

§ 24.2-510. Deadlines for parties to nominate by methods other than primary.—For any office, nominations by political parties by methods other than a primary shall be made and completed in the manner prescribed by law according to the following schedule:

- 1. For a general election in November, by 7:00 p.m. on the second Tuesday in June;*
- 2. For a general election in May, by 7:00 p.m. on the first Tuesday in March;*
- 3. For a special election held at the same time as a November general election, either (i) at least 74 days before the election or (ii) if the special election is held at the second November election after the vacancy occurred, by 7:00 p.m. on the second Tuesday in June before that November election;*
- 4. For a special election held at the same time as a May general election, by 7:00 p.m. on the first Tuesday in March; or*
- 5. For a special election held at a time other than a general election, (i) at least thirty days before the election or (ii) within five days of any writ of election or order calling a special election to be held less than thirty-five days after the issuance of the writ or order.*

In the case of all general elections a party shall nominate its candidate for any office by a non-primary method only within the thirty-two days immediately preceding the primary date established for nominating candidates for the office in question. This limitation shall have no effect, however, on nominations for special elections or pursuant to § 24.2-539.

Drafting Note: Proposed § 24.2-510 is based on subsection B of existing § 24.1-166. See Drafting Note for proposed § 24.2-507. The final paragraph of the proposed section is taken from existing § 24.1-172 without substantive change.

~~§ 24.1-169~~ 24.2-511 . Party chairman to certify candidates to be certified to State Election Board and secretary of electoral board; failure to certify.— A. The ~~state, district, or other appropriate party~~ chairman shall certify the name of any candidate who has been nominated by his party by a method other than a primary for any office to be elected by the qualified voters of (i) the Commonwealth at large, or of (ii) a congressional district or of a General Assembly district, who has been nominated by his party by convention or other method other than a primary, shall be certified by the chairman of the party or (iii) political subdivisions jointly electing a shared constitutional officer, to the State Board of Elections not later than five days after the second Tuesday in June, and no further notice of candidacy or petition shall be required last day for nominations to be made . Immediately following the fifth day after the second Tuesday in June, the The State Board shall notify the secretaries of every electoral board of the names of the candidates to appear on the ballot for such offices.

B. The party chairman of the district or political subdivision in which any other office is to be filled shall certify the name of any candidate for any other that office who has been nominated by his party by primary, convention or other a method shall be certified by the chairman of the party other than a primary to the State Board of Elections and to the secretary or secretaries of the electoral boards of such the cities and counties in which the name of such the candidate shall will appear on the ballot not later than five days after the second Tuesday in June or in the case of a general election in May, not later than five days after the first Tuesday in March, and no further notice of candidacy or petition shall be required; provided that should last day for nominations to be made. Should the party chairman fail to make such certification, the State Board of Elections shall declare that the candidate is the nominee of the particular party and direct that his name be treated as if certified by the party chairman.

C. In the case of a nomination for any office to be filled by a special election, the party chairman shall certify the name of any candidate (i) by the deadline to nominate the candidate or (ii) not later than five days after the deadline if it is a special election held at the second November election after the vacancy occurred.

D. No further notice of candidacy or petition shall be required of a candidate once the party chairman has certified his name to the State Board.

Drafting Note: The new provision in subsection A that the appropriate party officials notify the State Board of the names of candidates for shared constitutional offices facilitates the Board's existing practice of notifying local electoral boards that such names are to appear on the ballot. The requirement in subsection A for "immediate" notification by the State Board is revised. See Drafting Note for § 24.2-505.

Subsection B removes the redundant requirement that the party chairman certify the names of candidates nominated by primaries for local offices. The local electoral board already has certified the results (see proposed § 24.2-532) and forwarded an abstract of the vote to the State Board (see existing § 24.1-150 and proposed § 24.2-675).

Existing § 24.1-169 does not explicitly state the deadline for party chairmen to certify names of nominees for special elections. The administrative practice has been to require certification by the nomination deadline and proposed subsection C codifies this practice with the exception for special elections scheduled for the second November election following the occurrence of the vacancy.

Article 4.

Conduct of Primaries.

~~§ 24.1-170~~ 24.2-512 . Primaries to be conducted in accordance with article.—A primary when held shall be conducted in all respects under the provisions of this article. All references in this chapter to primaries shall be deemed to mean those elections held for the purpose of nominating candidates as authorized by this article.

Drafting Note: The second sentence is added to establish clearly that the use of the term "primary" applies only to those nominating elections held on regularly scheduled days established by law in March and June. Along with sections which follow, the proposed language intends to make clear that a primary cannot be called for special elections held at times other than May and November and that any informal "election" method that a party committee might adopt under its rules to nominate a candidate is not deemed a primary for purposes of state law.

§ ~~24.1-178~~ 24.2-513 . Provisions as to general elections applicable.—All the provisions and requirements of the laws of this Commonwealth in relation to the holding of elections shall apply to all primaries insofar as they are consistent with this article.

Drafting Note: No change.

§ ~~24.1-171~~ 24.2-514 . To what nominations this article applies.—This article shall apply to the nomination of candidates for such offices as shall be nominated by a direct primary *held on the regular dates established in § 24.2-515 for the conduct of primaries*, and to no other nominations. The right to provide that a party nomination shall be made by a direct primary or by some other method shall be determined as follows: for a member of the Senate in the Congress of the United States, or for any Commonwealth office, by the duly constituted authorities of any political party of the Commonwealth at large; for any district office or member of the House of Representatives of the United States, member of the General Assembly, or for any city, town, or county office, by the duly constituted authorities of any political party of the district, county, city, town, or other political subdivision of the Commonwealth in which such office is to be filled.

This A primary is not authorized under this article shall not apply to the nominations of nominate presidential electors, nor to the nominations of nominate candidates to fill vacancies unless the candidates for nomination to fill vacancies are to be voted for on the *regular* date set by this ~~chapter~~ article for regular primaries.

Drafting Note: See drafting note for proposed § 24.2-512 for an explanation of the language added in proposed § 24.2-514. The stricken provisions have been incorporated into proposed § 24.2-509.

§ ~~24.1-174~~ 24.2-515 . Time primaries to be held.— (a) Primaries for the nomination of candidates for offices to be voted on at the general election *date* in November shall be held on the second Tuesday in June next preceding such election. Primaries for the nomination of candidates for offices to be voted on at the general election *date* in May shall be held on the first Tuesday in March next preceding such election.

(b) The primary election in June and the primary election in March shall be paid for by the treasurer of the county or city in which such elections are held.

Drafting Note: The stricken language is moved to proposed § 24.2-518.

§ 24.1-166.1. [REPEALED] Nomination by primary in certain special elections. A. The provisions of this section shall apply to any special election for an attorney for the Commonwealth in cities having population between 104,000 and 110,000 ordered to be held November 2, 1982.

B. The primary date for the selection of candidates for such special elections shall be Tuesday, September 7, 1982.

C. The declaration of candidacy required by § 24.1-184 shall be filed not earlier than noon of the thirtysixth day (Monday, August 2, 1982) and not later than 5:00 p.m. of the thirty second day (Friday, August 6, 1982) prior to the primary.

D. The chairman or chairmen required to furnish the names of candidates under § 24.1-187 shall do so not later than the twenty eighth day (Tuesday, August 10, 1982) prior to the primary.

E. The statements required to be filed with the State Board of Elections by primary candidates under § 24.1-167 shall be filed not later than the thirty second day (Friday, August 6, 1982) prior to the primary.

F. It shall be the duty of the electoral boards of such cities of this Commonwealth (i) to have the ballots printed for the primary election as required by § 24.1-109 at least twenty days (be Wednesday, August 18, 1982) prior to the primary or as soon thereafter as possible and (ii) to cause to be delivered to the registrar and secretary of the electoral board in accordance with § 24.1-110 sufficient ballots for absentee voting purposes at least twenty days prior to the primary or as soon thereafter as possible.

G. Applications for absentee ballots shall be processed as provided in Article 7 of Chapter 7

of Title 24.1 within twenty days of the primary.

H. With respect to independent candidates and party nominees selected by any means other than a primary for such elections, the provisions of Title 24.1 shall be applicable, except that 7:00 p.m., September 7, 1982, shall be deemed the deadline for purposes of all filing and timing requirements, and a party selecting a nominee by any method other than by direct primary shall do so only within thirty-two days, and no more, immediately preceding September 7, 1982.

I. For purposes of ~~§ 24.1-176~~, the State Board of Elections shall make inquiry of each party chairman at least sixty days ~~(by Friday, July 9, 1982)~~ prior to September 7, 1982, as to whether a direct primary has been adopted, and the chairmen must file notification with the Board ~~not less than fifty days (by Monday, July 19, 1982)~~ prior to September 7, 1982.

J. The costs of any primary election held pursuant to this section shall be paid for by the ~~treasurers~~ of the cities in which such elections are held

Drafting Note: Existing § 24.1-166.1 is repealed, its authorization of a special primary in 1982 for a single office in one city long ago having fulfilled its purpose.

~~§ 24.1-176~~ 24.2-516 . Party to furnish names of chairmen and notify State Board of adoption of direct primary ; ~~or when party requires nomination to be made otherwise .— In the month of January each year, each~~ 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 ~~in January of each year~~ , and during the remainder of the year ; it shall notify the Board of any changes in such names and addresses.

At least 120 days prior to the *regular* date for a primary the Board shall ~~make inquiry~~ inquire 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 to the Board of the adoption of a direct primary is required and must be filed with the Board not more than 110 days and not less than 90 days before the date set for the primaries.

Each chairman shall file timely written notice with the Board whether or not a primary has been adopted and identify each office for which a primary has been adopted. The requirement to notify the Board of the adoption of a direct primary shall be satisfied when the Board receives by the deadline (i) written notice from the appropriate party chairman or (ii) a copy of the written notice from an incumbent officeholder to his party chairman of the incumbent's selection, pursuant to ~~§ 24.1-172~~ 24.2-509 , of the primary as the method of nomination.

Drafting Note: Language is added to require party chairmen to advise the State Board whether or not a primary has been adopted and the specific office for which adopted. The Board now requests this information in order to ensure that all primaries are properly scheduled.

~~§ 24.1-177~~ 24.2-517 . State Board to order election.—The State Board of Elections shall ~~after receipt of the notice~~ order the holding of a primary election in any county, city , or other district of the Commonwealth in which it is so notified pursuant to § 24.2-516 that a primary is intended to be held. ~~Such~~ The notice ordering the primary shall be sent to the secretary of the electoral board. Each ~~such~~ secretary shall forthwith post a copy of ~~such~~ the notice at the courthouse of ~~such~~ the county or city, or publish ~~such~~ the notice in a newspaper of general circulation in ~~such~~ the county or city.

Drafting Note: Stylistic changes only.

§ 24.2-518. County and city treasurers to pay primary expenses; certain uses of machinery by party.—The treasurer of the county or city in which the elections are held shall pay the costs of primary elections.

A political party may hold an election to select the members of its party committee at the same time and in the same places as a primary election without fee or charge for making use of the electoral machinery, provided that a primary to nominate the party's candidate for an office is in fact conducted on that primary date. Such elections for party committee members may be conducted by paper ballots or by voting machines in the discretion of the local electoral board.

The proper political party committee shall pay the costs of using the election machinery at any other time for the purpose of conducting other nominating procedures adopted pursuant to the rules of that party, if such use is authorized by the officials having custody of the machinery.

Drafting Note: The first paragraph is taken from existing § 24.1-174. References in that section to primary elections conducted "in March" and "in June" are not carried forward in order to avoid any implication that primaries might be conducted at other times.

The second paragraph is taken from existing § 24.1-180 without change, except for the addition of a clause to make clear that the party committee can exercise this option only if a primary has been scheduled. The party cannot require election officials to open the polls at public expense simply to elect party committees. The third paragraph recognizes that parties on occasion choose to nominate primaries") at times other than regular primary dates. This proposed chapter differentiates these informal procedures from the official primary process.

~~§ 24.1-180. When party may use electoral machinery without charge.— When a political party holds an election to select the members of such party committee and such election is held at the same time and in the same places as a primary election, no fee or charge shall be made or required of such political party for making use of the electoral machinery. Such elections for party committee members may be conducted by paper ballots or by voting machines in the discretion of the local electoral board.~~

Drafting Note: The substance of existing § 24.1-180 is included in the second paragraph of proposed § 24.2-518.

~~§ 24.1-181. [REPEALED] For what primaries county and city treasurers required to pay expenses.— Nothing in this article shall be construed to require the county and city treasurers to pay expenses of more than one primary held by any one party for one election, but if any of the subordinate party committees call a primary at a date other than the date for the general primary, then the expenses of the primary called by such subordinate party committee shall be paid by the party committee so calling it.~~

Drafting Note: The provisions of existing § 24.1-181 are not included in the proposed new title because they are outdated, confusing, and appear to contradict existing law. The section applied when Virginia had provisions for a second or "run off" primary if no candidate received a majority in the first primary. The existing section incorrectly implies that primaries may be called by the parties at times and by procedures other than those found in the general law. Proposed § 24.2-518 contains the requirement that the party committee must pay for the use of election machinery used in nominating procedures conducted by the party at times other than the regular primary dates.

~~§ 24.1-182 24.2-519 . Qualification of primary candidates.— The name of a candidate shall not be printed upon any official ballot used in order to qualify as a candidate at any primary unless such , a person is must be legally qualified to hold the office for which he is a candidate ; unless he is eligible and be qualified to vote in the primary in which he seeks to be a candidate. In order to hold any office of the Commonwealth or its governmental units, elective by the people, the candidate must have been a resident of the Commonwealth for one year next preceding his election to office. Only a person fulfilling all the requirements of a candidate shall have his name printed on the ballot provided for in the election.~~

Drafting Note: No change in substance. The first stricken sentence is stated in proposed § 24.2-500. The last stricken sentence is included in proposed § 24.2-525.

~~§ 24.1-184 24.2-520 . Declaration of candidacy required .— A. The name of a A candidate for nomination by primary for any office shall not be printed on any official ballot used at a primary unless, not earlier than noon of the seventy-seventh day and not later than 5:00 p.m. of the sixtieth day before the primary, he shall required to make and file a written declaration of candidacy on a form prescribed by the State Board of Elections, and has complied with the rules and regulations of the proper committee of his party . The declaration required by this section shall include the name of the political party of which the candidate is a member, a designation of the office for which he is a candidate, and a statement that, if defeated in the primary, his name is not to be printed on the ballots for that office in the succeeding general election. The declaration shall be acknowledged before some officer who has the authority to~~

take the acknowledgments to deeds, or attested by two witnesses who are qualified voters of the election district.

~~B. Any candidate for nomination for United States Senator, Governor, Lieutenant Governor or Attorney General shall file the declaration required in subsection A of this section and the filings required in § 24.1-186.1 with the State Board of Elections not earlier than noon of the seventy-seventh day and not later than 5:00 p.m. of the sixtieth day before the primary.~~

Drafting Note: No change in substance. Proposed § 24.2-522 includes the provisions stricken from existing § 24.1-184.

~~§ 24.1-185~~ 24.2-521 . Petition required to accompany declaration; number of signatures required.— ~~The name of a A candidate for nomination by primary for any office shall not be printed upon any official ballot used at any primary unless he shall required to file with his declaration of candidacy a petition for his name to be printed on the official primary ballot therefor , on a form prescribed by the State Board of Elections , signed by the number of qualified voters specified below after January 1 of the year in which the election is held or before or after said date in the case of a March primary, and listing the residence address of each such qualified voter ; each . Each signature to which has on the petition shall have been witnessed by a person who is himself a qualified voter eligible to vote for the office for which he is circulating the petition and, in the case of a statewide office, is a resident of the same congressional district as the voter whose signature is witnessed, and whose affidavit to that effect appears on each page of the petition.~~

Each voter signing the petition shall provide on the petition his social security number, if any; provided noncompliance with this requirement shall not be cause to invalidate the voter's signature on the petition.

The minimum number of signatures of qualified voters required for primary candidate petitions shall be as follows:

1. For a candidate for the United States Senate, Governor, Lieutenant Governor, or Attorney General, a number equal to one-half of one percent of the number of voters registered in the Commonwealth as of January 1 of the year in which the petition must be filed and including at least 200 qualified voters from each congressional district in the Commonwealth;

2. For a candidate for the United States House of Representatives, a number equal to one-half of one percent of the number of voters registered in the congressional district as of January 1 of the year in which the petition must be filed;

3. For a candidate for the Senate of Virginia, 250 signatures;

4. For a candidate for the House of Delegates ; or for a constitutional office, ~~or for membership on the governing body of any county, city, or town,~~ 125 signatures;

5. For a candidate for membership on the governing body of any county ; or city, ~~or town~~ 125 signatures; or if from an election district not at large containing 1,000 or fewer registered voters, 50 signatures; ~~and~~

6. For a candidate for membership on the governing body of any town which has more than 1,500 registered voters, 125 signatures; or if from a ward or other district not at large, 25 signatures;

7. For membership on the governing body of any town which has 1,500 or fewer registered voters, no petition shall be required; and

8 . For any other candidate, 50 signatures.

~~A candidate for office in a town which has 1,500 or fewer registered voters shall not be required to file a petition under this section.~~

Drafting Note: The petition requirement provisions have been rearranged for greater clarity. The only substantive change is the addition in subdivision 6 of the requirement for only twenty-five signatures in town ward elections. The 1987 General Assembly added this language to the petition requirements for general elections but failed to do so for the primary.

~~§ 24.1-186~~ 24.2-522 . Filing declaration of candidacy with chairman.— When and to whom filings to be made.—A. Declarations of candidacy, petitions, and receipts indicating the payment of filing fees shall be filed not earlier than noon of the seventy-seventh day and not later than 5:00 p.m. of the sixtieth day before the primary.

B. Except as provided in ~~§ 24.1-186.1~~ subsection C , candidates for nomination shall file their declaration, declarations, petitions, and receipts with the chairman or chairmen of the several committees of the respective parties.

~~§ 24.1-186.1~~ Filings by candidates for statewide office.—A. C. Any candidate for nomination for United States Senator, Governor, Lieutenant Governor , or Attorney General shall file with the State Board of Elections the following: 1. His (i) his declaration of candidacy as provided in ~~§ 24.1-184~~; and 2. The , (ii) the petitions for his candidacy required by ~~§ 24.1-186~~ , sealed in an envelope to which is attached ; 3. A written statement under oath by the candidate giving his name and the number of signatures on the petitions contained in such the envelopes ; , and 4. A (iii) a receipt indicating the payment of his filing fee as provided in ~~§ 24.1-190~~ .

B. The State Board of Elections shall transmit the material designated in paragraphs 1, 2, 3, and 4 of subsection A of this section so filed to the state chairman of the party of the candidate on the fifty-ninth day before the primary. C. The sealed envelope containing the petitions for a candidate may be opened only by the state chairman of the party of the candidate.

Drafting Note: Proposed § 24.2-522 combines existing §§ 24.1-186 and 24.1-186.1. Subsection A is taken from existing § 24.1-184.

~~§ 24.1-198~~ 24.2-523 . Candidates to pay fee upon before filing.—Every candidate for nomination for any office at any primary shall, before he files his declaration of candidacy, pay a fee equal to two per centum percent of one year's minimum salary attached to the office for which he is candidate in effect in the year in which he files.

In case of a candidate for an office for which compensation is paid in whole or in part by fees, the amount to be paid by such a candidate as his contribution for the payment of the expenses of the primary shall be fixed by the proper committee of the respective parties.

If there is no salary or fee attached to the office the fee for primary expenses shall be five dollars. This provision includes candidates for party committees in ~~§ 24.1-180~~ 24.2-518 .

Drafting Note: Stylistic changes only.

~~§ 24.1-190~~ 24.2-524 . To whom fees paid; refund of fees.— The fees shall be paid as follows:

(a) A. Candidates for United States Senators, for representatives in Congress, and for the offices of Governor, Lieutenant Governor, and Attorney General shall pay such the primary fee to the Treasurer of the Commonwealth. The primary fees paid to such Treasurer shall be credited by him the Treasurer to a fund to be known as the "state primary fee fund."

In the event a prospective candidate pays the fee to such Treasurer, and does not become a candidate; such The Treasurer shall refund the fee by warrant upon the state primary fee fund ; and in the event the prospective candidate who has paid the fee does not become a candidate, becomes a candidate and is not opposed, or in the event a candidate must refile for any reason ; the Treasurer shall pay back the fee by warrant upon the state primary fee fund .

(b) B. All other candidates shall pay the fee to the treasurer , or director of finance if there is no treasurer, of the city or county in which they reside. A receipt for the payment of such fee must accompany and be attached to the declaration of candidacy; otherwise the same shall not be received or filed. In the event a prospective candidate pays the fee to a county or city treasurer or director of finance and does not become a candidate, the The treasurer or director of finance shall pay back the fee in the event the prospective candidate does not become a candidate , or in the event becomes a candidate and must refile for any reason ; the treasurer or director of finance shall pay back the fee . In the event the candidate who paid the fee is unopposed, the State Board of Elections or the local electoral board, as appropriate, shall notify, no less than forty-five days before the primary, the treasurer or director of finance to whom the fee was paid that the candidate is unopposed and shall provide the name and mailing address for returning the fee to the candidate. The treasurer or director of finance promptly shall return the fee to the candidate. All other primary fees paid a county or city treasurer or director of finance shall be paid or placed to the credit of the fund of the county or city out of which the

expenses of the primary were paid by the county or city.

C. A receipt for the payment of the fee must be attached to the declaration of candidacy; otherwise the declaration shall not be received or filed.

Drafting Note: No change in substance. The requirement to attach the receipt for the filing fee is stated in a separate subsection to make it plain that the requirement applies to all offices.

§ 24.2-525. Persons entitled to have name printed on ballot.—Only a person meeting all the qualifications and fulfilling all the requirements of a candidate, and who has complied with all the rules and regulations of his party, shall have his name printed on the ballot provided for the primary election.

Drafting Note: Proposed § 24.2-525 incorporates provisions found in existing §§ 24.1-183 and 24.1-184.

~~§ 24.1-175. 24.2-526 . Primary not to be held when less than two candidates declare.—Whenever within the time prescribed by this article there is only one declaration of candidacy in a political party for the nomination for any office, the person filing such the declaration shall be declared the nominee of such the party for the office for which he has announced his candidacy and his name shall not be printed on the ballot for the primary. No primary shall be held for the nomination of candidates for office when the authorities of a political party, acting within the discretion vested in them by this chapter, shall require the nomination to be made otherwise. Whenever within the time prescribed by this article there is no declaration of candidacy in a political party for the nomination for any office, the appropriate committee of such the party may provide for an alternative method of nominating a candidate as stipulated under § 24.1-172 .~~

Drafting Note: The second sentence is stricken because existing § 24.1-171 and proposed § 24.2-509 already give the party the authority to determine the method of nominating its candidates.

~~§ 24.1-187. 24.2-527 . Chairman to furnish State Board and local electoral boards and State Election Board with names of candidates.—It shall be the duty of such the chairman or chairmen of the several committees of the respective parties to furnish the name of any candidate for nomination for any office to be elected by the qualified voters of the Commonwealth at large or of a congressional district or of a General Assembly district to the State Board of Elections , and to furnish the name of any candidate for any other office to the State Board and to the electoral boards charged with the duty of preparing and printing the primary ballots. Such The chairman shall also certify the order and date and time of filing for purposes of printing the ballots as prescribed in § 24.1-188; except 24.2-528, provided that the State Board of Elections shall determine the order and date and time of filing for candidates for United States Senator, Governor, Lieutenant Governor , and Attorney General for such purposes of printing the ballots as prescribed in § 24.1-188 . Each such chairman shall comply with the provision provisions of this section not less than fifty-five days before the primary.~~

Drafting Note: No change in substance.

~~§ 24.1-173. 24.2-528 . Candidate not No primary candidate to be nominated by convention.—No party which has adopted the plan method of making nominations a nomination for an office by primary pursuant to § 24.2-509 , shall have the power to nominate by a convention any candidate to be voted for at any particular that primary.~~

Drafting Note: No substantive changes, other than to make the language more specific to the choice by the party for each year and office. Existing § 24.1-173 uses language implying a general party plan for all nominations, which no longer applies.

~~§ 24.1-188. 24.2-529 . Primary ballots.—The primary ballots for the several parties taking part in a primary shall be composed, arranged, printed, delivered , and provided in the same manner as the general election ballots except that across at the top of each official primary ballot shall be printed in plain black type the date of the primary; the name of the political party ; and immediately underneath the following words "Primary Election Ballot ." The names of the candidates for various offices shall appear on the ballot in an order determined by the priorities~~

priority of the time of filing for the office. In the event two or more candidates file simultaneously, the order of filing shall then be determined by lot by the electoral board or the State Board of Elections as in the case of a tie vote for the office. No write-in shall be permitted on ballots in primary elections.

Drafting Note: No change in substance.

~~§ 24.1-182~~ 24.2-530 . Who may vote in primary.—All persons qualified to vote, pursuant to § 24.1-41 § 24.2-400 through 24.2-403, to vote at the election for which the primary is held, may vote at the primary; ~~except that no~~. No person shall vote for the candidates of more than one party.

Drafting Note: No change in substance.

~~§ 24.1-189~~ 24.2-531 . Pollbooks and ballot boxes.—There shall be pollbooks in the form set forth in § 24.1-135 24.2-611 and a separate ballot box provided for each party taking part in any primary. The ballot box for each party shall have plainly marked upon its top the words; "Primary Ballot Box"; and immediately under the words the name of the party which uses the same. The officers of election shall enter on the cover of the pollbook, if not entered previously, the name of the party whose voters are recorded therein.

Drafting Note: No change in substance.

~~§ 24.1-191~~ 24.2-532 . Abstracts of votes; law-enforcement officer to obtain returns not forwarded.—As soon as the electoral board shall determine the persons who have received the highest number of votes for nomination to any such office, the secretary of the board shall immediately make out abstracts and certificates of the votes cast as provided in § 24.1-150, and 24.2-675 and forward certified copies thereof to the State Board. The secretary in addition shall place certified copies thereof shall be placed in an envelope by the secretary and forwarded forward them in person or by certified mail as follows: for United States Senator and state officers to the State Board of Elections; (i) for members of the House of Representatives of the United States, to the chairman of the congressional district committee and to the State Board of Elections; (ii) for members of the General Assembly, to the chairman of the Senate or House of Delegates district committee and the State Board of Elections; and (iii) for county and city and district officers, to the chairman of the county or city. The chairman or chairmen hereinbefore referred to are "Chairman" means the chairman or chairmen of the political party or parties under whose auspices the primary is held.

~~§ 24.1-193~~ Law-enforcement officer to obtain returns not forwarded.— If from any county or city the abstract of votes shall not have been received by the State Board of Elections from any county or city within six days after any state primary election, it the Board shall dispatch a law-enforcement officer to obtain them as provided in § 24.1-153 24.2-678 .

Drafting Note: Proposed § 24.2-532 combines existing §§ 24.1-191 and 24.1-193 without change in substance.

~~§ 24.1-190~~ 24.2-533 . Pollbook retained by clerk Party chairman entitled to copy pollbook at own expense.— After the vote has been ascertained, the The chairman of the party shall be entitled, at his own expense, to copy the pollbook retained by the clerk of court after it has been returned by the secretary of the electoral board in accordance with § 24.1-143 24.2-671 .

Drafting Note: No change in substance. The cross reference to § 24.2-671 corrects an erroneous cross-reference in existing § 24.1-190.

~~§ 24.1-192~~ 24.2-534 . Returns tabulated by State Board of Elections; when nominee declared.—As soon as possible after receipt of the certified abstract and not later than fourteen days after the day of the election, the State Board of Elections shall open and tabulate the returns. Upon the completion of such the tabulation the Board shall declare the nominee in the manner and form as it does in general elections.

Drafting Note: No change in substance.

~~§ 24.1-170~~ 24.2-535 . Vote required to nominate.—Any candidate for party nomination to any office who receives a plurality of the votes cast by his party shall be the nominee of his party for ~~such~~ that office and his name shall be printed on the official ballots used in the election for which the primary was held.

Drafting Note: No change in substance.

~~§ 24.1-194~~ 24.2-536 . Procedure to fill vacancies caused by death, resignation or removal when a vacancy in office occurs less than sixty days before primary date .—Whenever, by reason of the death, resignation , or removal of the incumbent, a vacancy in any office shall occur occurs less than sixty but more than thirty days before the regular date fixed by ~~§-24.1-174~~ for the holding of a primary, but more than thirty days before such date, the properly constituted party authorities may permit the filing of declarations and petitions of candidacy for nomination for that office in the primary to such office . Notice of such the vacancy and the right to file declarations and petitions of candidacy for nomination to fill the same it shall be advertised by the party committee or committees in at least one newspaper of general circulation within the Commonwealth ; if it be an office filled by election by the people at large, and in ease of all other offices, in the manner prescribed by the properly constituted party authorities in the case of all other offices . No such declaration and petitions of candidacy shall be filed with the committee or committees until such advertisement is had made , nor within fifteen twenty days prior to the date for holding the primary. Declarations and petitions of candidacy filed pursuant to this section shall comply in every respect, except for the time of filing, with the requirements established generally for such declarations and petitions in this article.

If more than one person qualifies, the party chairman shall promptly certify their names to the State Board and the appropriate electoral boards as having qualified under the provisions of the section. The electoral boards having charge of the printing of the official ballots for the primary shall either;

- 1. Cause to be printed on the ballot the name of each person so certified, or*
- 2. If the official ballots have already been printed, cause separate ballots to be printed for the office for which the persons have qualified pursuant to this section.*

In the event that only one person qualifies as a candidate under the provisions of this section, the person so qualifying shall be declared the nominee of his party for that office and his name shall not be printed on the primary ballot.

In the event that no person qualifies as a candidate under the provisions of this section, or that the vacancy occurs less than thirty days before the primary, the appropriate committee of the political party shall determine the time and method of nominating its candidate for the office.

Drafting Note: The first part of proposed § 24.2-536 continues existing § 24.1-194 without changes in substance, except that the deadline for filing under these circumstances is increased from fifteen to twenty days before the primary. The twenty-day deadline more recently has been used in existing provisions addressing other emergency situations (see the following two proposed sections) and is a more realistic timetable to allow for preparation of ballots.

The new language is patterned after the provisions in existing § 24.1-195 which outlines procedures to be followed when the party's "nominee by default" dies or withdraws. Existing § 24.1-194 provides no direction as to preparation for the primary election under the situation addressed by this section.

~~§ 24.1-195~~ 24.2-537 . ~~When~~ Procedure when nominee by default dies or withdraws or nomination is set aside prior to primary.— A. If any person who shall would have been nominated as the candidate of a political party for any office in any general election by reason of the fact that he is was the only person who has filed the required notice declaration of and petition for candidacy dies or withdraws as such the party candidate, or his nomination is set aside for failure to meet the requirements of ~~§-24.1-185~~ any reason , at a time which is thirty days or more before the day on which such the primary would have been held if two or more candidates had qualified, the appropriate committee of the political party shall determine the time and method of nominating its candidate for the office.

- B. If the party committee determines that the party's nominee shall be elected at the*

~~scheduled primary~~, any person desiring to become a candidate for nomination by ~~such the party~~ at ~~such that~~ primary who is otherwise qualified may file a ~~notice declaration~~ of and petition for his candidacy with the proper chairman or ~~chairmen~~ of his party committee or ~~committees~~. No person whose nomination has been set aside for fraud knowingly participated in by the candidate, or other person who knowingly participated in such fraud, shall be deemed qualified. ~~Such notice~~ The declaration and petition shall comply in every respect ; ~~except as to the time of filing same,~~ with the requirements which applied to the qualification as a ~~primary candidate~~ of the nominee who has died or withdrawn, or whose nomination has been set aside. ~~Such notice established generally for such declarations and petitions in this article,~~ except that the declaration and petition shall be filed at least twenty days before the day on which the primary is to be held.

If more than one person qualifies, the party chairman or ~~chairmen~~ shall promptly certify their names to the *State Board and the appropriate electoral board or boards* as having qualified under the provisions of this section. The electoral ~~board or boards~~ having charge of the printing of the official ballots for ~~such the~~ primary election shall either : ~~(a) cause~~

1. ~~Cause~~ to be printed thereon the name of every person so certified to it as ~~qualifying as provided in this section~~ ,or ~~(b) if~~

2. If the official ballots containing the names of ~~candidates~~ for the party's nomination for another office or other offices have already been printed, they may cause separate ballots to be printed for the office for which two or more persons have qualified pursuant to the provisions of this section and ~~print thereon the names of such persons certified to it as so qualifying~~ .

In the event that only one person qualifies as a candidate at ~~any such~~ primary in accordance with the provisions of this section, ~~such the~~ person so qualifying shall be deemed to be the ~~primary~~ declared the nominee of his party for ~~such that~~ office and his name shall not be printed on ~~any ballot used in such the~~ primary ballot .

In the event that no person qualifies as a candidate pursuant to the ~~foregoing~~ provisions of this section, or that the death or withdrawal or setting aside of candidacy of any such party nominee should occur at a time which is less than thirty days prior to any such primary, the party's nominee shall not be selected at ~~such primary~~. The state central committee, or other appropriate state, district, city, or county committee of such party, shall by resolution proclaim the time, place, and manner ~~appropriate committee of the political party shall determine the time and method of nominating its candidate for such the office ; of which at least thirty days' public notice shall be carried in the press, and such candidate shall be nominated in conformity with the resolution and proclamation of the party committee.~~

C. No party ; however, shall nominate any person whose nomination has been set aside for fraud knowingly participated in by the candidate, or any other person who knowingly participated in such fraud.

Drafting Note: The only substantive change is in subsection A, where the party is authorized to decide whether to continue with a primary if the only declared candidate ceases to be a candidate. The party should have the latitude to consider the short time frame and other factors which might affect the conduct of a primary campaign and the availability of new candidates, and to determine whether the primary or another method would best serve the party's interests.

§ ~~24.1-106~~ 24.2-538 . Procedure when opposed candidate for nomination dies prior to primary.—If any person who is a candidate for nomination by a political party at a primary election, and who, along with one or more other candidates, has qualified to have his name printed on the official ballot for the primary, dies thirty days or more before the day on which the primary is to be held, any person otherwise qualified who desires to be a candidate at ~~such that~~ primary may file a ~~notice declaration~~ of and petition for his candidacy with the proper chairman or ~~chairmen~~ of his party committee or ~~committees~~. ~~Such notice~~ The declaration and petition shall comply in every respect ; ~~except as to the time of filing same,~~ with the requirements which applied to the qualification as a ~~primary candidate~~ of the candidate who has died. ~~Such notice established generally for such declarations and petitions by this article,~~ except that the declaration and petition shall be filed at least twenty days before the day on which the primary is to be held.

The party chairman or chairmen shall promptly certify the names of every such person to the *State Board and appropriate electoral board or boards* as having qualified under the provisions of this section. Every electoral board having charge of the printing of official ballots for ~~such the~~ primary election shall either : ~~(a) cause~~

1. Cause to be printed thereon the name of every person so qualifying as provided in this section certified, or (b), if

2. If the official ballots have already been printed and there appear thereon the names of candidates for such party's nomination for another office or other offices, and, also, the names of such party's candidates for such office for which new candidates have qualified pursuant to this section, such electoral board may in its discretion cause to be stricken from such ballots already printed the title of the office involved and the names of all candidates for nomination for such office appearing thereon, and cause separate ballots to be printed for such the office and place or print thereon containing the names of those candidates other than the decedent who have theretofore qualified (excluding the decedent), and also the names of those certified to it as having qualified pursuant to the provisions of this section. The board may, in its discretion, cause to be stricken from the ballots already printed the title of the office involved and the names of all candidates for nomination for the office appearing thereon.

Whenever any additional candidate shall qualify pursuant to this section, no ballots theretofore cast by absentee vote for a candidate for such office shall be counted, but any person who has so voted shall be entitled to receive a new ballot and to vote for his choice among all the candidates for such office.

Drafting Note: No change in substance.

Article 5.

Death, Withdrawal, or Disqualification of Party Nominee.

§ 24.1-197 24.2-539 . Party may nominate when nominee dies, refuses candidacy withdraws, or nomination is set aside for fraud ; duty of party chairman.—Should the nominee of any party die, or refuse his candidacy withdraw, or if have his nomination is set aside for fraud or any other reason between any primary and the succeeding election, any the party may nominate to fill such the vacancy in accordance with its own rules ; except that no . A candidate who has been disqualified for failing to meet the filing requirements of Article 1 of this chapter shall not be renominated. No party shall nominate renominate any person whose nomination has been set aside for fraud knowingly participated in by the candidate. The party chairman or chairmen shall promptly certify the name of any such nominee to the appropriate electoral board or boards and the nominee shall promptly comply with the filing requirements of Article 1 of this chapter .

Drafting Note: Proposed § 24.2-539 combines existing § 24.1-197 and parts of existing § 24.1-110 in order to bring together provisions relating to replacing a party nominee who dies, withdraws, or is disqualified. The substance of existing law and practice is unchanged.

§ 24.1-110. Placing additional name on ballot where party nominee dies or withdraws after expiration of time for qualifying.—Whenever any candidate of a political party who has been nominated in any primary election or convention, or by any other lawful means, dies or withdraws as a candidate at a time when it is too late under the general statutes for a candidate for the office involved to qualify to have his name printed on the official ballot for the general election, it shall be permissible for his political party to nominate and file the required notice of a different candidate pursuant to § 24.1-107. A candidate who has been disqualified for failing to meet the filing requirements of § 24.1-167 shall be deemed to have withdrawn and shall not be nominated.

§ 24.2-540. Other parties may also nominate; independent candidates.— Any other political party shall may also be permitted to nominate and file the required notice of a new candidate pursuant to § 24.1-107 24.2-539 if the candidate who died, or withdrew, or had his nomination set aside was unopposed by that party. A nonparty candidate shall also be permitted to file a notice of candidacy whether or not the candidate who died, or withdrew, or had his nomination set aside was opposed by a nonparty or party candidate.

Any such party or nonparty candidate shall file any statement or petition required of him by §§ 24.1-166 through 24.1-168 Article 1 or Article 2 of this chapter .

§ 24.2-541. Printing of names on ballot.— In the case (i) of a candidate who has died if the notice is filed with the proper official at least twenty-five days before the day on which the election is to be held, or (ii) of a candidate who has withdrawn or had his nomination set aside

if the notice is filed with the proper official at least forty-five days before the day on which the election is to be held, the electoral board or boards having charge of the printing of the ballots for such election shall either:

(1) 1. Cause to be printed thereon the name of each every person so qualifying as provided in this section ; article; or

(2) 2. If ballots for the election have already been printed , and contain the names of candidates for other offices to be voted on at such election, any such electoral board may in its discretion cause to be stricken therefrom the title of the office involved, and the names of all candidates for such office appearing thereon, and cause separate ballots to be printed for such the office on which shall be printed the names of all such candidates name of every person qualifying under the provisions of as provided in this section article and of any other party or nonparty candidate for the same office who had already qualified to have his name printed on the ballot. In addition, the electoral board may cause to be stricken from the earlier printed ballots the title of the office involved and the names of all candidates for that office appearing thereon .

If the candidate so dying or , withdrawing ; or having his nomination set aside is a candidate for an office to which more than one person is to be elected and none of such the candidates ; was opposed prior to such death or , withdrawal , or setting aside was opposed , then the ballots shall be so printed as to permit the electors to vote separately for the remaining unopposed candidate or candidates, and for such persons who filed notice of candidacy under the provisions of as provided in this section article .

Whenever any additional candidate shall qualify pursuant to qualifies as provided in this section article , no ballots theretofore votes previously cast by absentee vote ballot for a candidate for such office shall be counted, but any person who has so voted shall be entitled to receive a new ballot and to vote for his choice among all such the candidates for such office.

Drafting Note: The first paragraph of existing § 24.1-110 is stricken because its substantive provisions have been incorporated in proposed § 24.2-539. The remainder of the existing section is divided into two proposed new sections. The language relating to the setting aside of a nomination, taken from existing § 24.1-197, is added to reflect the third way in which a party may lose its initial nominee. Language is added in clause 2 of proposed § 24.2-541 to state explicitly that the name of any party or nonparty candidate who has previously qualified will be printed on any new ballot printed pursuant to this section. The other changes are stylistic and conform language to terminology used in other Title 24.2 provisions.

Article 6.

Nominations for Presidential Elections.

§ ~~24.1-158~~ 24.2-542 . State Board of Elections to be furnished names of electors selected by political parties.—In elections for President and Vice-President of the United States , the names of electors selected by the different political parties at their respective conventions held for that purpose, together with the name of the political party and the names of the candidates for President and Vice-President for whom they are expected to vote in the Electoral College, the state chairman or the secretary of each political party shall be furnished furnish to the State Board of Elections at least by noon of the seventy-fourth day before any the presidential election for the electors of President and Vice-President by the chairman or secretary of said party, the names of the electors selected by the party at its convention held for that purpose, together with the names of the political party and of the candidates for President and Vice-President for whom the electors are expected to vote in the Electoral College . In the event of the death or withdrawal of a candidate of a political party for President or Vice-President, that party may substitute the name of a different candidate before the State Board of Elections certifies to the county and city electoral boards the form of the official ballots. The State Board of Elections shall also be furnished, if request therefor is made it requests , with satisfactory evidence that any person undertaking to so act as an elector on behalf of any political party is, in fact, duly and properly authorized so to do.

Drafting Note: No change in substance.

§ ~~24.1-159~~ 24.2-543 . How other groups may submit names of electors.— Any A group of qualified voters, equal in number to at least 1/2 of 1% of the number of voters registered in the Commonwealth as of January 1 of that year and including at least 200 qualified voters from

each congressional district in the Commonwealth, not constituting a political party as defined in § 24.1-1 24.2-101 , may have the names of electors selected by them, including 1 one elector residing in each congressional district and 2 two from the Commonwealth at large, printed upon the official ballot to be used in the election of electors for President and Vice-President by filing a petition so requesting pursuant to this section. The petition shall be filed with the State Board of Elections not later than by noon of the seventy-fourth day before said the presidential election. The petition shall be signed by qualified voters equal in number to at least one-half of one percent of the number of voters registered in the Commonwealth as of January 1 of the year of the presidential election and include signatures of at least 200 qualified voters from each congressional district. Said The petition ; which shall be signed by said voters petitioners on and after January 1 of the year in which the of the presidential election is held only and contain their the residence addresses; the signatures to which address of each petitioner. The signature of each petitioner shall be witnessed by a qualified voter of the same congressional district whose affidavit to that effect is attached to said the petition ; . The petition shall set forth state the names of the electors selected by such voters the petitioners , the party name under which they desire the named electors so selected to be listed on the ballot, and the names of the candidates for President and Vice-President for whom such the electors are expected to vote in the Electoral College. Substitution of a different candidate for Vice-President may be made by the candidate for President before the State Board of Elections certifies to the county and city electoral boards the form of official ballot. In order to utilize a selected party name on the ballot, such group the petitioners shall have had a state central committee composed of registered voters from each congressional district of the Commonwealth, a party plan and bylaws, and a duly designated chairman and secretary in existence and holding office for at least six months prior to filing the petition. The State Board of Elections may require proof that such group meets the petitioners meet these requirements before permitting use of a party name on the ballot. Such The party name shall not be identical with or substantially similar to the name of any political party qualifying under § 24.1-1 24.2-101 and then in existence. In the event of the death or withdrawal of a candidate for President or Vice-President so qualified to appear on the ballot by party name, that party may substitute the name of a different candidate before the State Board certifies to the county and city electoral boards the form of the official ballot.

In the event that a group of qualified voters meets the requirements set forth herein in this section except that they cannot utilize a party name, the electors selected and the candidates for President and Vice-President shall be identified and designated as "Independent : " on the ballot. Substitution of a different candidate for Vice-President may be made by the candidate for President before the State Board certifies to the county and city electoral boards the form of the official ballot.

Drafting Note: A third party will be allowed to name a new candidate upon the death or withdrawal of either of its candidates just as the two major parties are allowed to do under present law. Since the third party will have a party organizational structure in place, and presumably will be a unit of a national party, there is no reason to differentiate between it and the major parties in this circumstance.

§ 24.1-200. [REPEALED] Copies of article distributed to election officials.— Copies of this article shall be distributed by the State Board of Elections to the various members of the electoral boards and officers of election throughout the Commonwealth.

Drafting Note: Existing § 24.1-200 is repealed as surplusage since the Board now distributes copies of the entire title to all electoral boards for all polling places pursuant to § 24.1-100.1 and proposed § 24.2-610.

CHAPTER 6.

THE ELECTION.

Chapter Drafting Note: Proposed Chapter 6 sets out the core provisions on the conduct of elections found in existing Chapter 7. The revisions in this chapter are driven by changes in practice over the past 23 years and reflect current developments in voting equipment and in administrative practice. The structure of the chapter is based on the chronology of the election in contrast to existing Chapter 7 which covers a broader range of topics including nominations and primary elections.

Proposed Articles 1 and 2 cover preparations for the election — general provisions, polling places, and ballots. To the extent possible, provisions have been simplified and brought up to date with current practice. Proposed Article 3 concerns voting equipment, and the terminology

has been revised to recognize that newer types of electronic, as well as mechanical, voting equipment are now in use.

Proposed Article 4 covers the time that the polls are open on election day and the determination of the results of the election. Again, the objective of the revisions is to clarify present provisions and incorporate current administrative practice where it is appropriate to do so. Discrepancies in the law between the procedures applicable to voting equipment and paper ballots are eliminated when appropriate.

The provisions on special elections are consolidated in proposed Article 5. The provisions on times for special elections are spelled out in a new section without changing present law. Various timing constraints have been added to general law in several Title 24.1 provisions, and it is helpful to set them out in one section.

Article 1.

General Provisions; Polling Places.

~~§ 24.1-96~~ 24.2-600 . Cost of elections.—The cost of conducting elections under this ~~chapter~~ title shall be paid by the counties and cities, respectively. *The cost of town elections shall be paid by the towns.*

Drafting Note: No change in substance. Under the definitions, “elections” includes general, special, and primary elections. The last sentence is transferred from existing § 24.1-93 to include a reference to the obligation of towns to pay the costs of town elections. The costs to the towns do not include compensation to the general registrar and electoral board and mileage to the electoral board, items for which the Commonwealth reimburses the counties and cities. Town costs include items such as ballot costs, compensation to officers of election, and costs to prepare election equipment. Counties and cities pay the costs of primary elections pursuant to this section and proposed § 24.2-518 in the chapter on primary elections.

~~§ 24.1-93~~ 24.2-601 . Town election process ; ~~notice and cost of election~~ .—The electoral board and *general* registrar of the county within which a town, or the greater part thereof, is situated ~~has shall~~ control of the election process and the duty to carry out the applicable provisions of this title concerning towns. ~~Five days' notice of the time and place or places of such election shall be given by the secretary of the electoral board to the qualified voters of the town. Such notice shall be written or printed and posted at three or more public places within the town, or published once in a newspaper of general circulation in the town. The cost of all such elections shall be borne by the governing body of the town.~~

Drafting Note: The provision for five days' notice for town elections is deleted. There are no notice provisions for regular county or city elections to office, and towns now conduct elections on the May schedule subject to requirements applicable to municipalities generally. All special elections to office have a notice requirement. Referenda in towns, counties, and cities are usually subject to special notice requirements in the authorizing statute. The last sentence on costs of elections is transferred to § 24.2-600.

~~§ 24.1-01. Notice of candidacy; ballots; conduct of election, etc.; abstract of votes.—Where the election is held in an incorporated town for town officers it shall be the duty of all persons who intend to be candidates for office in the town to give notice of their candidacy to the general registrar of the county in which the town is located, and the general registrar shall notify the secretary of the electoral board as provided by § 24.1-166, and the electoral board shall print and deliver the ballots and hold the election in the manner provided for general elections. All the provisions of Chapter 7 (§ 24.1-05 et seq.) of this title, not inconsistent with the provisions of this chapter, in regard to the time and conduct of the election, counting of ballots, and certifying results shall apply. One copy of the abstract of votes shall be forwarded to the town council and recorded in its record book.~~

Drafting Note: Existing § 24.1-91 is stricken because its contents are covered in other sections. The provisions on notice of candidacy are covered in proposed Chapter 5. The provisions on the responsibilities of the general registrar and electoral board are covered more broadly in proposed § 24.2-601. Chapter 6 is applicable to town elections, ballots, and the conduct of the election. Proposed § 24.2-675 specifically provides for sending the abstract of the votes to the town council.

~~§ 24.1-113.1~~ 24.2-602 . ~~Exceptions to applicability of §§ 2.1-436 through 2.1-468 and of §§ 11-35 through 11-71~~ *Exemption for ballots and election materials from certain purchasing and procurement requirements* .—The provisions of Article 3 , *Purchases and Supply*, (§ 2.1-435 et seq.) of Chapter 32 of Title 2.1 and of Articles 1 (§ 11-35 et seq.), 2 (§ 11-41 et seq.) , and 3 (§ 11-63 et seq.) of Chapter 7 , *Virginia Public Procurement Act*, of Title 11 shall not apply to contracts for *equipment, services*, the printing of ballots ; or statements of results, or other materials or services essential to the conduct of the election. The provisions of ~~Article~~ *Articles* 2.1 (§ 11-62.1 et seq.) of Chapter 7 of Title 11, ~~pertaining to prompt payment, and of Article 4 (§ 11-72 et seq.) of Chapter 7 , Virginia Public Procurement Act, of Title 11 ; pertaining to ethics in public contracting,~~ shall apply to such contracts.

Drafting Note: The present law, exempts ballots, materials, and services for elections from state law purchasing and procurement requirements because of the time and ballot formatting constraints applicable to elections. The word “equipment” is added to cover election machinery which may be needed to replace equipment which proves to be defective prior to an election. It is not clear under present law whether the word “materials” includes such machinery. The provisions of the Public Procurement Act articles on prompt payment and ethics continue to be applicable to these contracts.

~~§ 24.1-98~~ 24.2-603 . *Hours polls to be open ; closing the polls* .—At all elections, the polls shall be open at each ~~voting polling~~ *polling* place at ~~six o'clock 6:00 a.m. of on the day on which of the election is directed to be had and closed at seven o'clock 7:00 p.m. of on the same day ; such times being either eastern standard or daylight saving time as is in effect at such poll on the day of the election under the provisions of § 1-15 as the same may be amended from time to time~~

~~§ 24.1-99.~~ *How polls closed.* Proclamation shall be made of the closing of the polls by ~~At 6:45 p.m. an officer of election shall announce that the polls will close in fifteen minutes previously thereto . The officers of election shall ascertain and make a list by name of the names of all qualified voters ; if any, in line before the polling place at the hour of closing, 7:00 p.m. and shall permit such those voters and no others to cast their ballots vote after 7:00 p.m .~~

Drafting Note: These two short sections are combined so that polling place hours, closing the polls, and allowing voters in line to vote are covered in one provision. Changes are made to simplify the language in the sections, and an unnecessary cross-reference to § 1-15 is deleted. The present rule in § 1-15 is that all Code references to specific times are construed to refer to eastern standard or daylight savings time whichever is in effect when the provision is being applied.

~~§ 24.1-101~~ 24.2-604 . *No loitering near Prohibited activities at polls; notice of prohibited area; presence of representatives of parties or candidates ; penalties* .— A. During the ~~receiving and counting of the ballots times the polls are open and ballots are being counted~~ , it shall be unlawful for any person (i) to loiter or congregate within forty feet of any entrance of any polling place; ~~in any manner to hinder or delay a qualified voter in reaching or leaving a polling place;~~ (ii) ~~within such distance to give, tender, or exhibit any ballot, ticket , or other campaign material to any person or to solicit or in any manner attempt to influence any person in casting his vote ; or (iii) to hinder or delay a qualified voter in entering or leaving a polling place .~~

One authorized representative of each political party or ~~independent candidate~~ in a ~~general election or one authorized representative of each candidate in a primary or special election for each registration book or each division of registration book,~~ who is a qualified voter of the city or county within which the polling place lies shall be permitted to remain in the room in which the election is being conducted so long as he does not hinder or delay a qualified voter or give, tender, or exhibit any ballot, ticket or other campaign material to any person, or solicit or in any manner attempt to influence any person in casting his vote, and so long as he does not hinder or delay any officer of election or otherwise impede the orderly conduct of the election; provided, however, that such representatives shall be not more than three from each such political party or independent candidate.

The B. ~~Prior to opening the polls, the officers of election shall ; prior to the opening of the polls, determine the area designated and post , in the area within forty feet of any entrance to the polling place, sufficient notices which set forth the words state “Prohibited Area” in two-inch type and . The notices shall also set forth state the provisions of this section and § 24.1-267 in not less than twenty-four point type. The officers of election shall post the notices of within the prohibited area to be visible to the voter voters and the public.~~

C. The officers of election shall permit one authorized representative of each political party or independent candidate in a general election, or one authorized representative of each candidate in a primary or special election, to remain in the room in which the election is being conducted. If the precinct registered voter list is divided into sections, the officers shall permit one such representative for each section, but no more than three representatives of any political party or independent candidate shall be permitted in the room at any one time. Each authorized representative shall be a qualified voter of the county or city within which the polling place is located. Each representative shall present to the officers of election a written statement designating him to be a representative of the party or candidate and signed by the county or city chairman of his political party, the independent candidate, or the primary candidate, as appropriate.

D. It shall be unlawful for any authorized representative, voter, or any other person in the room to (i) hinder or delay a qualified voter, (ii) give, tender, or exhibit any ballot, ticket, or other campaign material to any person, (iii) solicit or in any manner attempt to influence any person in casting his vote, (iv) hinder or delay any officer of election, or (v) otherwise impede the orderly conduct of the election.

E. The officers of election may require any person who is found by a majority of the said officers present to be in violation of this section to remain outside of the prohibited area. Any person violating subsection A or D of this section shall be guilty of a Class 1 misdemeanor.

Drafting Note: Existing § 24.1-101 is rewritten and reorganized to pull together in subsections A and B the provisions on prohibited activities outside the polling place, to cover activities in the room in which the election is held in subsections C and D, and to state enforcement and penalty provisions in subsection E.

A sentence is added to state the basis for determining whether a representative is "authorized." This sentence is taken from existing § 24.1-137 on representatives who observe the ballots being counted. The prohibitions on activities within the room where the election is held are made applicable to all persons in the room. Existing § 24.1-101 is not clear on this point.

Subsection E is revised to state that violations of subsections A and D are Class 1 misdemeanors so that the elements of the offenses and the penalties are stated more clearly in this section.

~~§ 24.1-96.1~~ 24.2-605 . Loudspeakers prohibited at polls ; penalty .—Notwithstanding any contrary statute or ordinance of a county, city , or town, except for school purposes or in an emergency situation , no loudspeaker shall be used within 300 ² feet of a polling place on an election day. Any person violating this ~~statute~~ section shall be guilty of a Class 4 misdemeanor.

Drafting Note: No change in substance.

~~§ 24.1-102~~ 24.2-606 . Preservation of order at elections.— ~~Any law-enforcement officer who may be designated for the purpose by the~~ The officers of election , with the consent of the chief law-enforcement officer for the county or city , may designate a law-enforcement officer who shall attend at the polling place of election and preserve order at ~~and about the same~~ inside and outside the polling place . If ~~no~~ law-enforcement officer ~~be is~~ in attendance, the officers of election may ; by writing, appoint , in writing, one or more persons specially, who shall have all the powers of a law-enforcement officer in the ~~premises~~ polling place and within the prohibited area prescribed by ~~§ 24.1-101~~ 24.2-604 .

Drafting Note: No change in substance.

~~§ 24.1-104~~ 24.2-607 . Intimidation, etc., Prohibited conduct; intimidation of voters; disturbance of election; how prevented ; penalties .— The officers of election, if it shall appear that voters are being hindered or tampered with in any way ~~A~~ . It shall be unlawful for any person to hinder, intimidate, or interfere with any qualified voter so as to prevent the voter from casting of a secret ballot ; . The officers of election may order ~~the~~ a person ~~so engaged in~~ hindering or tampering with voters violating this subsection to cease such action ; and if . If such person ~~so engaged~~ does not forthwith promptly desist, the officers of election, or a majority of them, may order the arrest of such person by any person authorized by law to make arrests, and ~~confine~~ , by their warrant, may commit him ~~or them~~ in to the county or city jail, as the case may be, for a period not exceeding twenty-four hours ; and such person, upon conviction thereof, shall be punished as for a misdemeanor . Any person violating this subsection shall be guilty of a Class 1

misdemeanor.

~~If any person B. No person shall conduct himself in a noisy ; or riotous ; or tumultuous manner at or about the polls ; so as to disturb the election or insult or abuse an officer of election ; any . Any person authorized to make arrests may forthwith arrest him a person engaging in such conduct and bring him before the officers of the election, and they, by their warrant under their hands , may commit him to the county or city jail of the county or corporation , as the case may be, for a period not exceeding twenty-four hours; but they shall permit him to vote if he be so entitled.~~

Drafting Note: Existing § 24.1-104 combined two earlier sections and is revised without substantive change. Subsection A covers offenses against a voter, and a violation of subsection A is a Class 1 misdemeanor. Subsection B concerns disruptive behavior inside or outside the polling place and provides a means to maintain order without creating a misdemeanor offense.

~~§ 24.1-102 24.2-608 . Officers to decide order of voting.—The officers of election shall promptly decide any dispute as to precedence of the order in which qualified voters to the right to may vote, deciding who first offered, or if two or more offered at the same time, selecting the one to whom precedence shall be given who may vote first .~~

Drafting Note: No change in substance.

~~§ 24.1-100 24.2-609 . Voting booths.— It shall be the duty of the Each electoral board of the several counties and cities to shall provide at each of the voting places in their respective counties and cities a small compartment or booth large enough to contain and conceal from general observation a voter and a desk or other convenience for writing. Such booth shall be equipped with a desk or other such convenience, operative writing implements, and sufficient lighting to enable the voter to read the ballot. Such compartment or booth shall be so erected that a person standing at the desk in the booth or compartment shall be excluded from the observation of the officers of election and of other persons. The board, in its discretion, may have one or more of such booths at each such voting place. polling place in its county or city one or more voting booths. At least one booth shall be an enclosure which permits the voter to vote by paper ballot in secret, is equipped with a writing surface and operative writing implements, and is adequately lighted. Enclosures for voting equipment shall provide for voting in secret and be adequately lighted. The term "voting booth" shall include enclosures for voting paper ballots and for voting equipment.~~

Drafting Note: The language is simplified. The revised language incorporates provisions from §§ 24.1-100 and 24.1-212 and covers booths used for paper ballots and voting equipment.

~~§ 24.2-610. Materials at polling places.—A. The State Board shall provide copies of this title to each electoral board for each precinct in its county or city. The electoral board shall furnish a copy of this title to each precinct for the use of the officers of election on election day.~~

~~B. The State Board shall transmit to the secretary of each electoral board pollbooks for each precinct in its county or city of sufficient size to contain the full names of all the voters in the precinct. The pollbooks shall be uniform throughout the Commonwealth.~~

~~C. The electoral board, general registrar, and officers of election shall comply with the requirements of this title and the instructions of the State Board to ensure that the pollbooks, ballots, precinct registered voter lists, voting equipment keys, and other materials and supplies required to conduct the election are delivered to the polling place before 6:00 a.m. on the day of the election and delivered to the proper official following the election.~~

Drafting Note: This proposed section incorporates provisions from existing §§ 24.1-57, 24.1-100.1, 24.1-107, 24.1-134, and 24.1-216. This general statement covers a variety of administrative steps that must be taken to equip each polling place before opening the polls at 6:00 a.m. The reference in subsection C to all materials and supplies required for the conduct of the election serves as a basis for the State Board to issue instructions to local electoral boards, registrars, and officers of election to ensure that elections are conducted properly, that polling places are adequately equipped when the polls open, and that election materials are delivered to the proper official following the election.

~~§ 24.1-57. Election official to obtain registration books and voting machine keys; return of~~

books. The election official designated by the electoral board shall obtain the registration books from the general registrar and the voting machine keys from the electoral board as provided in § 24.1-216, not later than the time prescribed in § 24.1-08 for the opening of the polls on election day. By noon of the day after such election, the officers of election shall return the registration books to the registrar.

Drafting Note: Existing § 24.1-57 is incorporated in the more general statement contained in subsection C of proposed § 24.2-610.

~~§ 24.1-100.1. Copies of this title at polling places.—It shall be the duty of the electoral board to provide at each polling place in their respective counties and cities, on each election day, one copy of this title which shall be accessible for the use of any officer of election, such copies to be provided to the electoral board for that purpose by the State Board of Elections.~~

Drafting Note: Existing § 24.1-100.1 is incorporated in subsection A of proposed § 24.2-610 without substantive change.

~~§ 24.1-134. State Board to send secretary pollbooks.—The State Board of Elections shall transmit to the respective secretaries of the electoral boards pollbooks for each election district in their respective counties or cities, of sufficient size to contain the full names of all the voters therein, which books shall be uniform throughout the Commonwealth.~~

Drafting Note: Existing § 24.1-134 is incorporated in subsection B of proposed § 24.2-610 without substantive change.

~~§ 24.1-135. 24.2-611 . Form and signing of pollbooks.—The following shall be the form of pollbooks to be kept by the officers of election:~~

Oath first page of each pollbook shall include the following oath to be administered to all officers of election:

"I do solemnly swear (or affirm) that I will perform the duties for this election according to law and the best of my ability, and that I will studiously endeavor to prevent fraud, deceit, and abuse in conducting this election. So help me God. "

As given by Registrar or Secretary of Electoral Board or officer of election delegated by them to

....., Election Officer.

For the election held in thePrecinct, city/county of, Virginia, on, the following voters, having been found to be qualified to vote, exercised their franchise and voted: (and succeeding pages left blank)

As soon as the last ballot is cast, the officers of election shall endorse on the pollbook immediately following the name of the last voter the words "Polls Closed," the date of the election, and the time of closing, and at once shall affix their signatures immediately following such endorsement.

The oath shall be administered to each officer of election by the general registrar, the secretary of the electoral board, or an officer of election designated by them, who shall be so identified on the first page. The oath shall be signed by each officer of election and the person administering the oath. The pollbook shall be marked to identify the election for which it is used.

Drafting Note: No change in substance. The officers take their oath and sign the first page of pollbook as one of the last steps before the polls open. The final paragraph of existing § 24.1-135 is shifted to § 24.2-656 in Article 4 with other provisions concerning post-election procedures.

Article 2.

Ballots.

~~§ 24.1-109~~ 24.2-612 . List of offices and candidates filed with State Board of Elections and checked for accuracy; when ballots printed; number required.—Immediately after the expiration of the time ~~within which the names of candidates may be filed as provided by law for a candidate for any office to qualify to have his name printed on the official ballot~~ and prior to printing the ballots for an election, ~~the several~~ each electoral boards board shall forward to the State Board of Elections a list of the county, city, or town offices to be filled at the election and the names of all candidates who have filed for each office ; ~~and in~~ . In addition , each electoral board shall forward the name of any candidate who failed to qualify with the reason for his disqualification ; ~~and the~~ . The State Board of Elections shall promptly advise the respective electoral boards board of the accuracy of such ~~the list immediately~~ . However, ~~the~~ The failure of any electoral board to send said lists ~~the list to the State Board for verification to the State Board of Elections~~ shall not invalidate any election.

It shall be the duty of the Each electoral boards of the several counties and cities of this Commonwealth to cause the ballots to be board shall have printed in a sufficient the number to be determined by the respective electoral boards of ballots it determines will be sufficient to conduct the election .

Such boards The electoral board shall cause make printed ballots to be printed as soon as practicable after the secretary is officially notified of the names of the candidates in any election, and available for absentee voting at least (i) forty-five days prior to any November general election or special election held at the same time, or (ii) thirty days prior to any other general, special , or primary election, or (iii) in the case of a special election, if time is insufficient to meet the deadlines applicable deadline established herein, then as soon after said deadlines the deadline as possible.

Only these the names of candidates for offices to be voted on in a particular election district shall appear be printed on the ballots for that election district.

Immediately upon receipt of the ballots from the printer, the The electoral boards shall send to the State Board of Elections, together with a statement of the number of paper ballots ordered to be printed, a copy proofs of each printed ballot paper and voting machine equipment ballot for verification as provided by law , and copies of each final ballot . If the State Board finds that, in its opinion, the number of ballots ordered to be printed by any local electoral board is not sufficient, it may direct the local board to order the printing of a reasonable number of additional ballots.

Drafting Note: No change in substance. Stylistic changes are made for clarity and to conform to terminology used elsewhere in Title 24.2.

~~§ 24.1-111~~ 24.2-613 . Form of ballot.—The ballots shall be white paper without any distinguishing mark or symbol and shall contain the names of all the candidates ~~complying with the provisions of the law, qualifying to have their names printed on the official ballot as provided by law. Their names shall be printed in black ink, immediately below the office for which they have so announced their candidacy qualified as candidates~~ . The names on the ballot, in order determined as set forth herein, shall be in clear print ; ; each name shall be on in a separate line ; ; and the type used in printing the ballots shall be plain roman type, not smaller than twelve-point pica. Immediately to the left of and on the same line with the name of each candidate shall be printed a square, not less than one-quarter, nor more than one-half inch in size, printed thus:

JOHN DOE

Except as provided for primary elections, the State Board of Elections shall determine by lot the order of the political parties, and the names of all candidates for a particular office shall appear together in the order determined for their parties. Where there be In an election district in which more than one candidate representing a person is nominated by one political party running for an the same office, the candidates' names shall appear alphabetically in their party groups under the name of the office, with sufficient space between party groups to indicate them as such. For the purpose of this section and ~~§ 24.1-207~~ 24.2-640 and except as provided for presidential elections in § 24.2-614 , independents independent candidates shall be treated as a class under "Independent ;" ; their names shall be placed on the ballot after the political parties ; ; and where there be one or is more than one independent candidates candidate for an office, the candidates' their names shall appear alphabetically within the class "Independent" except that, in the case of presidential elections under Article 2 (§ 24.1-158 et seq.) of this chapter, the

order of such candidates within the Independent class shall be determined by lot by the State Board of Elections .

No names of political parties shall appear on the ballot, except ~~in~~ *as provided in § 24.2-614 for presidential elections under Article 2 of this chapter . In the case of presidential elections under Article 2 of this chapter, groups qualifying for a party name under § 24.1-160 shall be treated as a class, and the order of the groups within the class shall be determined by lot by the State Board of Elections and shall immediately follow the Independent class on the ballot.*

No individual's name shall appear on the ballot more than once for the same office.

~~§ 24.1-113. Note to indicate number of candidates to be voted for.— It shall be the duty of the State Board of Elections and the electoral boards, in~~ *In preparing the ballots for general, special and primary elections, to the State Board and electoral boards shall cause to be printed in not less than eight point ten-point type, immediately below the title of any office, a note stating statement of the number of candidates who may be voted for for that office. The following language shall be used: "Vote for not more than"*

Drafting Note: The provisions of existing §§ 24.1-111 and 24.1-113 are combined in this section since they are both directly related to the required form and content of the ballot. Other changes are clarifying and conform language to terminology used elsewhere in Title 24.2. The requirement for ten-point type is current practice. The specific provisions on the presidential ballot are transferred to proposed § 24.2-614.

~~§ 24.1-160~~ *24.2-614 . How ballots to be prepared.—It shall thereupon be the duty of the Preparation and form of presidential election ballots.—As soon as practicable after the seventy-fourth day before the presidential election, the State Board of Elections immediately to so notify the secretary of the electoral board of each county and city of the Commonwealth, and to shall certify to each said the secretary of each county and city electoral board the form of official ballot for the presidential election which shall be uniform throughout the Commonwealth. It shall then become the duty of the Each electoral board of each of the several counties and cities within the Commonwealth, shall have the official ballot printed at least forty-five days preceding such the election ; to cause to be printed on the uniform official .*

The ballot provided for in this title, shall contain the name of each said political party and the party group name, if any, specified by the persons naming electors by petition ; and underneath or below pursuant to § 24.2-543. Below the party name in parentheses , the ballot shall contain the words "Electors for, President and, Vice-President" with the blanks filled in with the names of the candidates for President and Vice-President for whom said the candidates for electors are expected to vote in the Electoral College ; after which the . The names of the electors nominated by said each political parties or groups or petitioners party or group of petitioners shall follow ; and to print a square preceding the name of each such political party and party designation , and a printed square shall precede the name of each political party or party designation .

Groups of petitioners qualifying for a party name under § 24.2-543 shall be treated as a class; the order of the groups shall be determined by lot by the State Board; and the groups shall immediately follow the independent class on the ballot. The order of the candidates within the independent class shall be determined by lot by the State Board.

Drafting Note: No change in substance. The provisions in existing § 24.1-111 which relate only to presidential elections are incorporated in this section in the last sentence.

~~§ 24.1-112~~ *24.2-615 . Separate ballots for proposed constitutional amendments, etc.; form to be same in places where vote is for same offices uniform ballots .— In submitting proposed amendments to the Constitution to the people, the same shall be printed on a separate ballot; and in submitting to the qualified voters the question set forth in Article XII, Section 2 of the Constitution, such questions shall be printed on a separate ballot. The names of all candidates for President and Vice President and for presidential electors shall be printed on a separate ballot, and the names of all candidates for the Congress of the United States shall be printed on a separate ballot. The names of all persons voted for by a qualified voter shall be on a ballot; and the form thereof shall be the same in all places when the same persons shall be voted for to fill the same office. A separate ballot shall be printed for each of the following: proposed amendments to the Constitution submitted to the qualified voters at one election; proposals submitted to the qualified voters after a constitutional convention pursuant to Article XII, Section 2 of the Constitution; candidates for President, Vice-President, and presidential electors; and*

candidates for the Congress of the United States.

The form of the ballot shall be the same throughout the election district in which the same candidates are running to fill the same offices and throughout the district in which a question is submitted to the voters.

Drafting Note: This section is revised to state the requirements for separate ballots more simply, and to include a reference to uniform referendum ballots. The phrase "The names of all persons voted for by a qualified voter shall be on a ballot" is deleted since it appears to conflict with write-in vote procedures and since existing § 24.1-111 and proposed § 24.2-613 clearly require that the names of all candidates, who qualify for the ballot, shall be printed on the official ballot.

~~§ 24.1-114~~ 24.2-616 . Oath Duties of printer ; statement; penalty .—The printer with whom contracting with or employed by the electoral board shall contract for the printing of to print the ballots shall ; sign a statement before the work is commenced ; take an oath before a member of the board or before any person qualified to give oaths, who is hereby empowered to administer such oath, to the following effect: "I, _____, solemnly swear that I will print (here insert number) ballots according to the instructions of the agreeing, subject to felony penalties for making false statements pursuant to § 24.2-1016, that he will print the number of ballots requested by the electoral board of the county (or city) of _____; that I will in accordance with its instructions; that he will print, and permit to be printed, directly or indirectly, no more than the above that number; that I he will at once destroy all imperfect and perfect impressions other than those required to be delivered to the electoral board; that as soon as such number of ballots is printed I he will distribute the type , if any, used for such work ; and that I ; and that he will not communicate to anyone whomsoever , in any manner, whatsoever, the size, style, or contents of such ballots. "

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

Drafting Note: The provisions are revised to cover contracts and other arrangements for printing ballots. For example, in some localities, the locality itself prints the ballots. The printer's oath is revised to eliminate the requirement for an administered oath and to restate more simply the felony penalty provisions applicable to violations of the printer's agreement.

~~§ 24.1-115~~ 24.2-617 . Representative of electoral board to be present at printing; custody of ballots; electoral board may disclose contents, style , and size.— It shall be the duty of the The electoral board to shall designate one person to be continuously present in the room in which the ballots are printed from the commencement until start to the end of the work ; and see ensure that the undertakings of the printer's oath statement are complied with strictly. For the faithful discharge of such this duty the person designated , other than a board member, shall receive the compensation of at least twenty dollars per day. Such person before entering upon the performance of such duties shall take an oath that he will faithfully execute the same.

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

The designated person shall sign a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that he has faithfully performed his duties, that the printer has complied with the requirements of law, and that only the requested number of ballots have been printed and are being delivered to the electoral board.

~~Nothing contained herein~~ This section shall not be construed to prohibit any electoral board from publishing or otherwise disclosing the contents, style , and size of ballots, which information electoral boards are authorized to publish or otherwise disclose.

Drafting Note: The section is modified slightly to recognize that ballots are printed often at a location far from the locality. The printer may ship ballots to the electoral board. The electoral board's representative is authorized to assure delivery of the sealed ballots rather than being required to take the ballots to the board. The requirement for an administered oath is replaced by the requirement of a statement, subject to penalty, that the printer and electoral board's

representative have complied with their responsibilities.

§ ~~24.1-116~~ 24.2-618 . Delivery of ballots to electoral board; checking and recording number.—~~The electoral board of each city and county shall meet as soon as convenient after the printing of the ballots as provided for in this chapter, at which meeting only to receive the ballots. Only members of the board shall be present, and the designated person, who shall have secured was designated by it to receive the ballots from the printer the ballots as required by § 24.1-115 , shall deliver such ballots to the board, and shall be present at the meeting. The board shall certify to the board the number of ballots so delivered which received. Its certificate shall be filed with and also copied into the minutes of the meeting of the board.~~

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

Drafting Note: The provision is simplified to eliminate the separate requirement of the secretary's book for recording the number of printed ballots. The preceding section provides for certification of the number of ballots printed and sent to the board. In this section, the board is required to certify the number it receives.

§ ~~24.1-117~~ 24.2-619 . Sealing ballots.—~~The electoral board shall designate one of its members or some other person ; who shall to cause the seal of the board to be affixed in his presence to every ballot printed as provided in this chapter ; upon . The seal shall be on the side reverse from that upon on which the names of the candidates appear. The seal shall be affixed on the ballot and may be done affixed on the ballot either mechanically or manually. Such The member of the board or other person designated shall make affidavit sign a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that the seal of the electoral board was affixed to the ballots in his presence in the manner prescribed by law, in which affidavit shall be set setting forth the name of every person taking part in the affixing of the seal ; and the affidavit , and stating that he has faithfully performed his duties. His statement shall be filed with the board and a copy thereof entered upon the minutes of the board. For his services in causing the seal to be affixed to the ballots, the person designated, other than a board member, shall receive compensation in the amount of at least twenty dollars per day. Any person not a member of the board so designated, before entering on the performance of such duties, shall take an oath that he will faithfully execute the same.~~

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

§ ~~24.1-118~~ Affidavit of persons taking part in packaging or sealing ballots.— Every person taking part in affixing the seal to the ballots or in placing the ballots in packages shall make affidavit that he will faithfully perform give his statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that he has faithfully performed his duties and that he will not divulge to anyone the contents of such the ballots or any part thereof ; which affidavits . These statements shall be filed with the secretary of the board and retained as a part of the records with the minutes of the board.

Drafting Note: Existing §§ 24.1-117 and 24.1-118 both relate directly to the task of placing the board's seal on the ballots and are combined in this proposed section. In many cases today, the electoral board seal is printed on the reverse side of the ballot and the printing and sealing operation is combined. The section is revised to permit the board's witness to file one signed statement to attest to proper procedures and to his having performed his responsibilities. The requirement for a "sworn" statement is replaced by the requirement for a signed statement subject to the felony penalties for false statements.

§ ~~24.1-119~~ 24.2-620 . Dividing ballots into packages for each precinct; delivery of absentee ballots.—~~The electoral board shall cause to be made, in the presence of at least one member of the board or some other designated person, as many one or more packages of ballots as there are voting precincts in the county or city, one for each precinct, which for each precinct in the election district. Each package shall contain a number of ballots determined by the board. Each of these packages shall be securely sealed in the presence of a member of the board or such designated person so that the ballots shall be invisible, and so that they could not the packages cannot be readily opened without detection. Upon On each of the packages shall be endorsed the name of the precinct for which it is intended and the number of ballots therein contained.~~

Thereafter the packages designated for each precinct shall be delivered to the secretary of the board and remain in his exclusive possession until delivered by him to the officers of election of each precinct as provided in § ~~24.1-120~~ 24.2-621

The electoral board shall ; not less than forty five days prior to any November general election or special election held at the same time nor less than thirty days prior to any other election, except in the case of a special election called on shorter notice, cause to be delivered to the registrar and the secretary of the electoral board have sufficient ballots for those offering to vote absentee under Article 7 (§ 24.1-227 et seq.) of Chapter 7 of this title delivered to the general registrar and secretary of the electoral board by the deadline stated in § 24.2-612 . Any such ballots remaining unused at the close of the polls on election day shall be sent by the general registrar and the secretary of the electoral board to the clerk of the circuit court of record wherein deeds are recorded of the county or city.

Drafting Note: No change in substance. Often more than one package of paper ballots may be delivered to each precinct — one small package for curbside voters and a larger package which is opened in case of voting equipment failures. The deadlines for having absentee voter ballots available are set out in the first section of this article and cited by the cross-reference to § 24.2-612.

§ ~~24.1-120~~ 24.2-621 . Delivery of packages to officers ; opening packages .—Before every election the secretary of the electoral board shall deliver to the officers, or one of the officers, an officer of election of each precinct the package of official ballots for that precinct ; taking and obtain a receipt therefor for the package or packages and a certificate that the seals appeared to be untampered with. And in the event of the inability by sickness or other incapacity of are unbroken. If the secretary is unable to deliver the official ballots, the electoral board or the secretary may cause them to be delivered by another member of the board shall deliver the ballots .

§ 24.1-121. Opening packages and counting ballots. The sealed package, at the Before opening of the poll polls , shall be opened in the presence of the officers of election ; and the ballots in the packages shall then be carefully counted shall open the sealed package and carefully count the ballots . If there is more than one package, additional packages shall be opened as needed and the ballots counted as provided in this section.

Drafting Note: Existing §§ 24.1-120 and 24.1-121 are combined in one section to cover how packages of paper ballots are delivered to the officers of election and opened at the precinct. In most precincts only one package will be needed and few paper ballots will be used. However, paper ballots must be available for voters who require a curbside ballot, other special situations, and in case of a voting machine breakdown. Changes are made to clarify or simplify language, but there is no change in substance.

§ ~~24.1-122~~ 24.2-622 . Sample ballots.—Nothing contained in this title shall be construed to prohibit: ~~(a)~~ (i) the printing and circulation of sample paper ballots, provided such sample paper ballots which are not printed on white paper and do include thereon the words "sample ballot" in type no smaller than twenty-four point ; ~~(a1)~~ ; (ii) the printing and circulation of sample machine voting equipment ballots, provided such sample machine ballots include on their face the words "sample ballot," or ~~(b)~~ " ; or (iii) the publication in newspapers of sample ballots of either type. All sample ballots, including those caused authorized by electoral boards, are "writings" for purposes of § 24.1-277 24.2-1014 . Voters may take sample ballots of either type into the voting booth or voting machine enclosure .

Drafting Note: No change in substance. Existing § 24.1-270 and proposed § 24.2-1008 prohibit counterfeiting official ballots. This section exempts "sample ballots," identified as such, from being construed to be counterfeit ballots.

§ ~~24.1-123~~ 24.2-623 . Ballot boxes to be supplied by governing bodies; construction and custody.—The governing body of each county and city shall ; at the expense of their respective counties or cities, procure provide a ballot box for each place of voting in any election district, which precinct and each part of a split precinct. The box shall be provided with have a lock and key and have an opening through the lid of sufficient size to admit a single folded ballot and no more. The boxes shall be kept by the electoral boards for the use of their several election districts use in the precincts .

Drafting Note: No change in substance.

§ 24.1-124 24.2-624 . Opening and closing ballot boxes; opening polls.— ~~The officers of election, or one of them, immediately~~ *Immediately* before ~~proclamation is made~~ of the opening of the polls, ~~an officer of election shall open the ballot boxes in the presence of the people there assembled, which shall include, in a general election, a representative of each of the two political parties which at the general election next preceeding casts the highest and next highest number of votes, and in a primary election, a representative of the party holding such election.~~ *the political party or candidate representatives authorized to be present for the examination of voting equipment pursuant to § 24.2-639, if such representatives be are available. They* ~~The officers shall turn such boxes upside down ; so as to empty them of everything that is in them , and then lock them, and deliver the key thereof shall be delivered to one of the officers ; and one . One of the officers shall forthwith proclaim that the polls are open. The boxes shall not be opened until the close of the polls and shall then be opened for the purpose of counting the ballots therein and . The boxes shall be kept in view of those voting within the polling place during the hours of the election.~~

Drafting Note: Current law provides that political party and primary candidate representatives may be present when voting equipment and ballot boxes are examined just prior to opening the polls. Another section (§ 24.1-210) allows party, primary candidates, and non-partisan election candidates to be present when voting equipment is prepared and sealed before the election. These three sections (proposed §§ 24.2-624, 24.2-633, and 24.2-639) are conformed to cover the non-partisan election in each instance.

Article 3.

Voting Equipment and Systems.

§ ~~24.1-225. What statutes apply~~ 24.2-625. Application of Title 24.2 and general law .—All of the ~~election laws now in force, and provisions of this title and general law not inconsistent with the provisions of this chapter, article shall apply with full force and effect to elections in counties, cities , and towns adopting and using voting machines mechanical or electronic voting or counting systems.~~

Drafting Note: No change in substance. The types of voting equipment available today are more varied than in 1970 and include electronic systems for voting and counting ballots. This article uses the word “systems” to cover all mechanical and electronic systems for voting and for counting ballots. The phrase “with full force and effect” is redundant and so deleted.

§ ~~24.1-203~~ 24.2-626 . Governing bodies shall acquire ~~maehines mechanical or electronic voting or counting systems ; time schedule .— The governing bodies of every county and city in this Commonwealth shall adopt for use at elections, within the time and for those precincts as set forth herein, any kind or type of mechanical voting machine or electronic voting system that has been approved by the State Board of Elections, and shall use such voting machines or systems at any and all elections held in such county or city or any parts thereof, for voting, registering and counting votes cast at such elections, except that towns (i) with 500 or fewer registered voters, or (ii) with wards each having 500 or fewer registered voters, may choose to conduct town, ward or council elections using paper ballots in lieu of such machines or systems.~~

~~The governing bodies of all counties having optional forms of government and of all cities shall adopt and acquire for use such voting machines for all precincts and election districts within such county or city prior to October 1, 1972. All other counties shall adopt and acquire for use such voting machines for all precincts or election districts within such county containing 750 or more registered voters prior to October 1, 1976.~~

~~The governing body of each county having an optional form of government and of each city shall provide for the use of mechanical or electronic voting or counting systems, of a kind approved by the State Board, at every precinct and for all elections held in the county, the city, or any part of the county or city. The governing body of every other county shall provide for the use of such systems at every precinct having 750 or more registered voters. No county shall divide or create precincts or election districts so that resulting precincts or election districts will contain less fewer than 750 registered voters, in order to avoid the requirements of this section.~~

~~Such governing bodies Each county and city governing body shall purchase, lease, lease purchase, or otherwise acquire such voting machines or systems and may provide for the payment therefor in such the manner as they may deem it deems proper. Voting machines or systems Systems of different kinds may be adopted for use and be used in different districts precincts of the same county or city subject to the approval of the State Board of Elections .~~

Any county required to ~~acquire~~ voting machines prior to October 1, 1976, may acquire such machines systems for precincts or districts containing less fewer than 750 registered voters.

The governing body of a town may provide for the use of paper ballots, in lieu of such systems, in elections for town offices and in town referendum elections if every town precinct contains 500 or fewer registered voters.

Drafting Note: Obsolete provisions are deleted which covered the transition to the use of voting machines in all cities and most county precincts. No change in substance.

~~§ 24.1-203.1~~ 24.2-627 . Mechanical voting machines and direct electronic voting or counting devices; number required.— A. The governing body of any county or city which adopts for use at elections mechanical voting machines or direct electronic voting devices systems shall provide for each precinct ~~not less than~~ at least the following minimum number of machines or voting devices:

In each precinct having not more than 750 registered voters, 1;

In each precinct having more than 750 but not more than 1,500 registered voters, 2;

In each precinct having more than 1,500 but not more than 2,250 registered voters, 3;

In each precinct having more than 2,250 but not more than 3,000 registered voters, 4;

In each precinct having more than 3,000 but not more than 3,750 registered voters, 5;

In each precinct having more than 3,750 but not more than 4,500 registered voters, 6;

In each precinct having more than 4,500 but not more than 5,000 registered voters, 7.

~~§ 24.1-203.2~~ Other electronic voting devices; number required.— B. The governing body of any county or city , which adopts for use at elections any electronic voting system which requires the voter to vote a ballot which is inserted in an electronic counter to be counted , shall provide for each precinct ~~not less than~~ at least one voting booth with a marking device for each 425 registered voters or portion thereof and shall provide for each precinct ~~not less than~~ at least one counting device.

Drafting Note: Existing §§ 24.1-203.1 and 24.1-203.2 set out the minimum number of machines or devices required in each precinct and are combined in this section. No change in substance. The term "device" is used to cover the component parts or equipment used in mechanical or electronic systems which allows the deletion of phrases such as "mechanical voting machines." The term "equipment" is also used in this article to refer to these devices — lever voting machines, electronic ballot counters, direct electronic voting machines.

~~§ 24.1-204~~ 24.2-628 . Examination Authorized use of mechanical voting machines; report of State Board devices .— A. Any person, firm , or corporation manufacturing, owning , or being interested in offering for sale any mechanical voting machine device may apply to the State Board of Elections , in the manner prescribed by the Board, to examine and approve such machine, and device. The Board shall make , or have made, a report upon on the capacity of the machine device accurately to register and count votes, and in respect to its mechanical perfections and imperfections, and whether the same it meets the requirements prescribed in this chapter. Their The report shall be filed in the office of the State Board of Elections and shall state whether in their opinion the kind of machine device so examined can be safely and conveniently used at elections as herein provided . If the Board determines that the machine device can be so used, and meets the requirements herein prescribed ; it shall be approved by such State Board and machines of its kind may be adopted in this chapter, the Board shall approve the device, for use at elections as herein provided . No form of voting machine device not so approved shall be used at any election.

~~§ 24.1-205~~ Construction of mechanical voting machines.— B. Any kind or type of mechanical voting machine device may be approved by such the State Board which is so constructed as to fulfill, and does fulfill meets the following requirements:

1. It shall provide facilities for voting for all candidates of as many political parties or organizations as may make nominations at any election; for or against or yes or no to on as many questions as may be submitted at any election; and at all general or special elections,

permit the voter to vote for all of the candidates of one party or in part for the candidates of one or more parties. It shall ~~permit~~ *enable* the voter to vote for as many persons for an office as he is lawfully entitled to vote for ~~permitted~~, but no more. It shall ~~prevent~~ the voter from voting for the same ~~persons~~ *person* more than once for the same office. It shall ~~permit~~ *enable* the voter to vote for or against on any question he or she ~~may have the right is lawfully permitted~~ to vote on, but no other.

If used 2. For use at a primary election ~~elections~~, it shall be so equipped so that all rows except those of the voter's party can be locked out by the officers of election by means of an adjustment on the outside of the ~~machine device~~.

3. It shall correctly register or record, and accurately count all votes cast for ~~any and all~~ candidates and ~~for or against or yes or no to any and all~~ on questions.

4. It shall be provided with a "protective counter" or ~~"protective device"~~ whereby any operation of the ~~machine device~~ before or after the election will be detected.

5. It shall be provided with a counter which shall show at all times during an election how many persons have voted.

6. It shall be provided with a mechanical model, illustrating the manner of voting ~~on the machine~~; and suitable for the instruction of voters.

7. It shall ~~also be provided with one device for each party, for voting enable each voter to vote for all the presidential electors of that one party by one operation; and~~ *It shall have a ballot therefor containing only the words " Presidential Electors For" preceded by the name of that the party or other authorized designation and followed by the names of its candidates thereof for the offices of President and Vice-President and a registering device therefor mechanism which shall register the registers the collective vote cast for such electors when thus voted collectively*.

8. It ~~must also insure~~ *shall ensure* voting in absolute secrecy.

Drafting Note: Existing §§ 24.1-204 and 24.1-205 are combined in one section parallel in structure to existing § 24.1-206.3 on newer electronic voting systems. In addition to minor stylistic changes, proposed subsection A clarifies that the State Board may (i) prescribe requirements to file an application (e.g. financial responsibility information) and (ii) have an independent report made on the capability of a mechanical voting device to meet the minimum requirements set by law. These changes mirror current law provisions on electronic voting systems.

§ ~~24.1-206.3~~ 24.2-629 . Authorized use of electronic voting systems and ballots.—A. Any ~~corporation or person, firm, or corporation~~ hereinafter referred to as the "vendor," manufacturing, owning, or offering for sale any electronic voting or counting system and ballots designed to be used with such equipment may ~~make application apply~~ to the State Board of Elections, in the manner prescribed by the Board, to have examined a production model of such equipment and the ballots used with it. In addition to any other materials which may be required, a current statement of the financial status of the vendor, including any assets and liabilities, shall be filed with the Board; if the vendor is not the manufacturer of the equipment for which application is made, such a statement shall also be filed for the manufacturer. These statements shall be exempt from the provisions of the Virginia Freedom of Information Act (§ 2.1-340 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 ~~mechanical voting machines devices~~ and ballots shall be deemed applicable to such equipment and ballots provided that (i) the counting equipment used with punchcard or mark sense ballots shall not be required to prevent a voter from voting for a greater number of candidates than he is lawfully entitled to; (ii) the 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. *Every electronic voting system shall ensure voting in absolute secrecy, and systems requiring the voter to vote a ballot which is inserted in an electronic counting device shall provide for secrecy of the ballot and a method to conceal the voted ballot.*

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 with disabilities; (iv) whether the system can be safely used without undue potential for fraud; (v) the ease of its operation and transportation by voting equipment custodians and officers of election; (vi) the financial stability of the vendor and manufacturer; (vii) whether the system meets the requirements of this title; and (viii) whether, in the opinion of the Board, the potential for approval of such system is such as to justify further examination and testing.

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

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

F. If, following testing, the Board approves any electronic 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.

Drafting Note: Clarifying and stylistic changes. Existing § 24.1-207.1 is included in subsection B so that the statutory requirements for electronic systems are stated in one section.

~~§ 24.1-206~~ 24.2-630 . Experimental use of approved systems .— ~~Upon~~ With the approval of the State Board of Elections, the governing body of any ~~city, town, or county, city, or town~~ may provide for the experimental use at an election in one or more election districts or precincts of a ~~machine or device voting or counting system~~ which it might legally adopt without a formal adoption thereof, and its use at such election shall be as valid for all purposes as if it had been legally adopted

Drafting Note: No change in substance.

~~§ 24.1-206.1~~ 24.2-631 . Experimental use of voting systems and ballots prior to approval of the system .—The State Board of Elections is authorized to approve the experimental use of voting or counting systems and ballots for the purpose of casting and counting absentee ballots in one or more counties and cities designated by the Board (i) that have established central absentee voter election districts and (ii) whose electoral board submits to the Board for approval a plan for the use of such system and ballots. The State Board is also authorized to approve the experimental use of voting or counting systems and ballots in one or more precincts in any county or city whose electoral board submits to the Board for approval a plan for such use. The use of such systems and ballots at an election shall be valid for all purposes.

Drafting Note: No change in substance.

§ 24.2-632. *Voting equipment custodians.* For the purpose of placing ballots in the frames of the voting equipment, putting voting and counting equipment in order, and setting, testing, adjusting, and delivering it, the electoral board shall employ one or more persons, to be known as custodians of voting equipment. The custodians shall be fully competent, thoroughly instructed, and sworn to perform their duties honestly and faithfully, and for such purpose shall be appointed and instructed at least thirty days before each election.

The final testing of the equipment prior to each election shall be done in the presence of an electoral board member or a representative of the electoral board. The electoral board may authorize a representative to be present at the final testing only if it is impracticable for a board member to attend, and such representative shall in no case be the custodian.

Drafting Note: This provision is taken from existing § 24.1-209 (proposed § 24.2-637) and set out in a separate section without any change in substance.

~~§ 24.1-210~~ 24.2-633 . Notice to chairmen of committees of preparation of equipment ; sealing equipment .—Before preparing a voting machine or electronic device voting or counting equipment for any election, the electoral board shall mail written notice shall be mailed (i) to the chairman of the local committee of each of the two political parties which at the general election next preceding, cast the highest and next highest number of votes party or , (ii) in a primary election, to the chairman of the local committee of the political party holding such the primary, and or (iii) in a city or town council election in which no candidate is a party nominee and which is held when no other election having party nominees is being conducted, to the candidates ; stating .

The notice shall state the time and place where the machines or devices equipment will be prepared ; at which time one representative of each such political party, or in the event of a primary election, one representative of the party holding such primary election, or in the event of such city or town council election, one representative of each such candidate, and state that the political party or candidate receiving the notice may have one representative present while the equipment is prepared.

At the time stated in the notice, the representatives, if present, shall be afforded an opportunity to see that the machines or devices are equipment is in proper condition for use at the election. When a machine or device has been so examined by such the representatives , it shall be sealed with a numbered metal seal in their presence. Such The representatives shall certify as to the numbers of the machines or devices ; and ; if mechanical voting machines devices are used, that all counters are set at zero (000) ; and as to ; the number registered on the protective counter ; ; and the number on the seal. When no party or candidate representative is present, the custodian shall seal the device as prescribed in this section in the presence of a member of the electoral board or its representative.

Drafting Note: The term “political party” is defined in proposed § 24.2-101. The reference to parties casting “the highest and next highest number of votes..” is stricken because it conflicts with the existing and proposed definition. The final sentence addresses a gap in present law which does not explicitly cover the situation when no party or candidate representative appears. No change in substance.

~~§ 24.1-211~~ 24.2-634. *Locking and securing after preparation.*—When a voting machine or electronic device voting or counting equipment has been properly prepared for an election, it shall be locked against voting and sealed ; and the . The equipment keys thereof shall be retained in the custody of the electoral board and delivered to the officers of election as provided for in §§ 24.1-57 and 24.1-216 § 24.2-639 . After the voting machines or devices have equipment has been delivered to the polling places it shall be the duty of , the electoral board to shall provide ample protection against molestation or injury to the machine or device tampering with or damage to the equipment .

Drafting Note: No change in substance.

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

Drafting Note: Existing § 24.1-212 is incorporated in proposed § 24.2-609 which applies to all

voting booths and enclosures, requires adequate lighting, and requires that booths permit voting in secret.

§ ~~24.1-214~~ 24.2-635 . Demonstration of equipment.—In any city, town or county each county, city, or town in which voting machines or voting devices are or counting equipment is to be used, the electoral board may designate suitable and adequate times and places for the exhibition and demonstration of a machine or device of equipment containing sample ballots, showing the title of offices to be filled, and, so far as practicable, the names of the candidates to be voted for at the next election for the purpose of giving instructions as to informing voters who request instruction on the use of a machine or device to all voters who may apply for the same the equipment . No machine or device equipment shall be used for such instruction after being prepared and sealed for use in any election. During such exhibitions, the counting mechanism, if any, of the machine or device equipment shall be concealed from view.

Drafting Note: Stylistic changes only.

§ ~~24.1-213~~ 24.2-636 . Instruction as to use of equipment.— Not less No fewer than three nor more than fourteen days before each election , the electoral board shall instruct, or cause to be instructed in , on the use of the machine or device and their equipment and his duties in connection therewith the officers , each officer of election appointed to serve in such the election who have has not previously been so instructed ; and . The board shall not permit any person to serve as an officer who is not fully qualified properly trained to conduct an election properly with the machine or device, provided that nothing herein equipment. This section shall not be construed as to prevent the appointment of a person as an officer of election to fill a vacancy in an emergency.

Drafting Note: Stylistic changes only.

§ ~~24.1-200~~ 24.2-637 . Furniture and machines or devices equipment to be at polling places ; custodians .— It shall be the duty of the Before the time to open the polls, each electoral board to shall have the voting machines or devices and counting equipment and all necessary furniture and equipment materials at the polling places before the time fixed for the opening of the polls, and have the , with counters on the machines voting or counting devices set at zero (000), and otherwise in good and proper order for use at such the election. For the purpose of placing ballots in the frames of the machine or voting device, putting it in order, setting, testing, adjusting, and delivering it, the electoral board shall employ one or more competent persons, to be known as custodians of voting equipment. Such custodians shall be fully competent, thoroughly instructed and sworn to perform their duties honestly and faithfully, and for such purpose shall be appointed and instructed at least thirty days before each election. The final testing of the voting machines or devices prior to each election shall be done in the presence of an electoral board member or a representative of the electoral board. However, the electoral board may authorize a representative to be present at the final testing only if it is impracticable for a board member to attend, and such representative shall in no case be the custodian.

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

Drafting Note: No change in substance. The provisions relating to voting equipment custodians are set out in proposed § 24.2-632.

§ ~~24.1-215~~ 24.2-638 . Voting equipment to be in plain view; officers and others not permitted to see actual voting; unlocking counter compartment of equipment, etc.— At any and all elections at which voting machines or devices are used During the election , the exterior of the voting machine or device and counting equipment and every part of the polling place shall be in plain view of the officers of election. The voting machine or device equipment shall be placed at least four feet from any table whereat any such officers may be engaged where an officer of election is working or seated. The officers of election shall not themselves be, or permit any other person to be, in any position or near any position that will permit them to see or ascertain observe how a voter votes or how he has voted.

One of such the officers shall inspect the face of the machine or voting device after each voter has cast his vote ; to and verify that the ballots on the face of the machine or device are in their proper places and that the machine or device has not been injured damaged . During

an election the door or other covering of the counter compartment of the machine voting or counting device shall not be unlocked or open or the counters exposed except for good and sufficient reasons, a statement of which shall be made and signed by the officers of election and attached to the returns of election statement of results . No person shall be permitted in or about the polling place except as now provided by law in elections where paper ballots and ballot boxes are used the voting equipment custodian and other persons authorized by this title .

Drafting Note: No change in substance.

§ ~~24.1-216~~ 24.2-639 . Duties of election officers of election .—The officers of each election of each precinct at which a voting machine or device is to be or counting equipment is used shall meet at the polling place at least three quarters of an hour before the time set for the opening of the polls at each by 5:15 a.m. on the day of the election ; and shall proceed to arrange the equipment, furniture, voting machines or devices and other materials for the conduct of the election. The officers of election shall verify that all required machines or devices equipment , ballots , and other materials have been delivered to them for such the election. The officers shall thereupon post at least two instruction cards for mechanical voting machines or direct electronic voting devices conspicuously within the polling place. If not previously done, they shall arrange, in their proper place on or in the voting machine or device, the ballots prepared for such election.

The keys to the voting machine or counting device equipment shall have been be delivered , prior to the opening of the polls, to the officer of election designated by the electoral board pursuant to § ~~24.1-57~~ in a sealed envelope on which shall have has been written or printed the number of the voting machine or counting each device, the number of the seal , and the number registered on the protective counter device , if one. The envelope containing the keys shall not be opened until all of the officers of election for such the precinct shall be are present at the polling place and shall have examined the envelope to see that it has not been opened. The machine or counting device equipment shall remain locked against voting until the polls are formally opened and shall not be operated except by voters in voting.

Before opening the polls, each officer and if it be a general election, a representative of each of the two political parties which at the general election next preceding casts the highest and next highest number of votes, and if it be a primary election, a representative of the party holding such primary election, if such representatives be present, shall examine the machines or counting device equipment and see that no vote has been cast and that the counters register zero. The officers shall conduct their examination in the presence of the following party and candidate representatives: (i) in a general election, a representative of each political party or (ii) in a primary election, a representative of each party holding a primary, or (iii) in a city or town council election in which no candidate is a party nominee and which is held when no other election having party nominees is being conducted, a representative of each candidate, if such representatives are available. If any counter is found not to register zero, the officers shall adjust the counters at zero if it can be done by them; if not, they shall make a written statement of the designating letter and number of such identifying the counter, together with the number registered thereon on it , and shall sign and post the same upon statement on the wall of the polling room, where it shall remain during the day of election ; and in making . The officers shall enter a similar statement on the statement of results ; . In determining the results, they shall subtract such number from the number of registered ballots thereon final total registered on that counter .

Drafting Note: No change in substance. The provision, which permits party and candidate representatives to be present while voting equipment is examined, is revised to parallel the provision in proposed § 24.2-633. The provision for officers of election to arrange ballots on voting equipment is deleted since voting equipment custodians set up and prepare voting equipment and insert ballots prior to the election.

§ ~~24.1-207~~ 24.2-640 . Ballots generally.—In every county and city adopting the use of using mechanical voting machines or direct electronic voting devices systems requiring printed ballots, the electoral board shall furnish a sufficient number of ballots printed on clear plain white paper, of such form and size as will fit the ballot frames of the machines or devices; however, the . The names of the various candidates shall not be printed thereon in type not less than fourteen point. On mechanical voting machines devices, the name of the office for which candidates are offering for election shall be printed in reverse printing or overlaid with a colored plastic strip.

Party nominations shall be arranged on each voting machine, direct electronic voting device

or other ballot to be electronically counted, either in columns or horizontal rows, and the caption of the various ballots on the machines or devices shall be so placed as to indicate to so that the voter what push knob, key lever or other knows what feature is to be used or operated in order to vote for the candidate or candidates of his or her his choice. In districts in which more than one person is nominated by a single party for the same office, the nominations for each party shall be grouped together in a separate row or column, or placed with sufficient space between party groups to indicate them as such. The provisions of general law concerning ballots shall apply unless in conflict with this section.

Drafting Note: No change in substance.

~~§ 24.1-207.1. Secrecy of ballot in certain voting systems.—Any voting system, other than mechanical lever machines or direct electronic voting equipment, shall provide for secrecy of the ballot and a method to conceal the voted ballot.~~

Drafting Note: This provision is incorporated in subsection B of proposed § 24.2-629 so that all requirements for electronic voting and counting systems are stated in one section.

~~§ 24.1-208. 24.2-641 . Sample ballot.—The electoral board of any city or county where mechanical voting machines or direct electronic voting devices are used shall provide for each voting precinct in which such mechanical voting machines or direct electronic voting devices are used, two sample ballots or instruction ballots, which shall be arranged in the form of as a diagram of the entire front of the voting machine or device as it will appear after with the official ballots are arranged therein or thereon ballot for voting on election day. Such sample ballots shall be open to the posted for public inspection at such each polling place during the day of election.~~

Drafting Note: No change in substance.

~~§ 24.1-221. 24.2-642 . Inoperative machines or devices equipment .— In case When any voting machine, voting or counting device ; or counting device used in any election district shall be or become becomes inoperative in whole or in part during the time while the polls are open, it shall be the duty of the officers to give immediate notice thereof to of election shall immediately notify the electoral board ; and it shall be the duty of such board if . If possible to , the electoral board shall substitute a machine or device in good order for the inoperative machine or device, and at the close of the polls the record of both machines or devices shall be taken, and the votes shown on their counters shall be added together in ascertaining the results of the election.~~

If (i) the inoperative machine or device cannot be repaired in time to continue use thereof at such using it at the election, if (ii) a substitute machine or device is needed to conduct the election but is not available for use, and if (iii) the supply of official paper ballots is not adequate, and (iv) the local electoral board approves, an officer of election may have copies of the official ballots which have been paper ballot reprinted or reproduced by photographic, electronic, or mechanical processes may be used, for use at the election. The voted ballot copies may be received by the officers of election and placed in the ballot box ; and counted with the votes registered on the voting machines or counting devices; and the result shall be declared the same as though no voting machine or device has been inoperative ; the ballots thus voted . The voted ballot copies shall be deemed official ballots for the purpose of § 24.1-142 24.2-665 and preserved and returned with the statement of result results and with (i) a certificate setting forth how and why the same were voted and (ii) a written statement under oath of the officer of election who had copies of the official ballot made stating the number of copies produced which shall accompany any unused copies . The officer of election who had the ballot copies made shall provide a written statement of the number of copies made, signed by him and subject to felony penalties for making false statements pursuant to § 24.2-1016, to be preserved with the unused ballot copies.

Drafting Note: This section allows the use of copies of the official paper ballot when necessary because of equipment failure. A provision is added to state that the electoral board must approve the decision to use copies. Administrative instructions now require electoral board approval and this change codifies present practice. The requirement for a statement "under oath" is replaced by the provision cross-referencing the false statement provision in proposed § 24.2-1016. Other changes are stylistic only.

Article 4.

Conduct of Election; Election Results.

~~§ 24.1-125~~ 24.2-643 . Qualified voter furnished with ballot permitted to vote; entry of voter's name on pollbook; other information. — Every A. After the polls are open, each qualified voter at a precinct shall, when he so demands, be furnished with an official ballot by one of the officers of election selected for that duty by a majority of the officers present permitted to vote. The officers of election shall ascertain that a person offering to vote is a qualified voter before admitting him to the voting booth and furnishing an official ballot to him.

~~§ 24.1-126~~. Entry of name of voter on pollbook; change of address.— The officer by whom any ballot is to be delivered to a voter shall, prior to the delivery thereof to the qualified voter, make inquiry and then pronounce in an audible voice the full name and current residence address as stated by the person to whom the ballot is to be delivered, and if his name is found on the registration book, and if he be qualified to vote in the election and there be no objection made, the full name and address of the elector shall be checked on the registration book by one of the officers and such full name entered on the pollbook opposite the correct number and the voter thereupon delivered the ballot.

B. An officer of election shall ask the voter for his full name and current residence address and repeat, in a voice audible to party and candidate representatives present, the full name and address stated by the voter. If the voter's name is found on the registered voter list, if he is qualified to vote in the election, and if no objection is made, an officer shall mark the voter's name on the registered voter list, an officer shall enter the voter's full name on the pollbook opposite the correct number, an officer shall provide the voter with the official ballot, and another officer shall admit him to the voting booth. A voter may be accompanied into the voting booth by his child age twelve or younger.

C. If the current residence address stated by the voter is different from the address stated on the registration book shown on the registered voter list, the officer of election shall furnish the voter with a change of address form prescribed by the State Board of Elections. Upon its completion, the voter shall sign the prescribed form, subject to felony penalties for making false statements pursuant to § 24.2-1016, which the officer of election shall then place in an envelope provided for such forms for transmission to the general registrar who shall then transfer or strike cancel the registration of such voter pursuant to subsections (8) or (12) of § 24.1-46. Chapter 4 of this title.

~~§ 24.1-126.1~~. Entry of number for voter on registration book.— D. At the time the voter is asked his full name and current residence address, the officer of election shall ask any voter for whom an identification number other than a social security number is recorded on the registration book registered voter list if he presently has a social security number and note that number on the registration book list if the voter is able to provide it. Any social security numbers so provided shall be forwarded entered by the general registrar to the State Board of Elections for inclusion in the voter's record on the central voter registration roster system.

Drafting Note: Existing §§ 24.1-125, 24.1-126, 24.1-126.1, and 24.1-218 describe the procedure for verifying that a voter is registered, recording his name on the pollbook, and delivering a ballot to the voter or a pass to enter a voting booth. These sections describe one process and so are combined to emphasize that the voter is permitted to vote as part of this verification process. The provisions of existing § 24.1-218 are incorporated in subsections A and B. The provision in existing § 24.1-129 on admitting children to the voting booth is also transferred to this section. An explicit reference is added to the felony penalties for false statements on a change of address form.

§ 24.1-218. Admitting voters to booth. After the opening of the polls, the officers of election shall not permit any voter or other person to pass into the voting machine, booth or enclosure until they ascertain that he or she is entitled to vote, except that a voter may be accompanied into the voting machine, booth or enclosure by his child age twelve or younger.

Drafting Note: Subsection A of the preceding section incorporates the first part of existing § 24.1-218 and subsection B provides for the admission of children to the voting booth with a parent.

~~§ 24.1-129~~ 24.2-644 . Place and manner of marking Voting by paper ballot; handicapped and elderly voters voting for presidential electors; write-in votes. — A. The qualified voter shall take

the official paper ballot and retire to enter the voting booth. A voter may be accompanied into the voting booth by his child age twelve or younger. A handicapped or elderly voter, as defined in ~~§ 24.1-97~~, may be handed a ballot outside the polling place but within 150 feet thereof by one of the officers and in his presence but in a secret manner, mark and return the same to such officer who shall proceed as provided in § 24.1-131.

After entering the voting booth, the qualified voter shall mark immediately preceding the name of each candidate for whom he wishes to vote for a check (/cm) or a cross (X or +) mark or a line (s) in the square provided for such purpose, leaving unmarked the square preceding the name of each candidate for whom he does not wish to vote for unmarked. Any ballot marked so that the intent of the voter is clear shall be counted.

B. The qualified voter at a presidential election shall mark the square preceding the names and party designation for his choice of candidates for President and Vice-President. His ballot so marked shall be counted as if he had marked squares preceding the names of the individual electors affiliated with his choice for President and Vice-President.

C. At all elections except primary and presidential elections it shall be lawful for any voter to place upon the official ballot in his own handwriting the name of vote for any person other than the listed candidates for that the office and to vote for such person by marking the same by a check (/cm) or cross (X or +) mark or a line (s) names placed thereon not in conformance herewith shall be counted for such person by writing or hand printing the person's name on the official ballot. No check or other mark shall be required to cast a valid write-in vote.

No write-in vote shall be counted unless the name is entered on the ballot in conformance with this section. No write-in vote will shall be counted when it is apparent to the officers of election that a voter has voted for the same person for the same office more than one time.

No write-in vote shall be counted for an office for any person whose name appears on the ballot as a candidate for that office. If two or more persons are to be elected to the same office, a voter may vote for one or more persons whose names do appear on the ballot and one or more persons whose names do not appear on the ballot, provided that the total number of votes cast by him for that office does not exceed the number of persons to be elected to that office.

Drafting Note: The provision for admitting children to the voting booth is covered in subsection B of § 24.2-643. The provision on curbside voting is transferred to proposed § 24.2-649. Subsection B incorporates existing § 24.1-161 on marking the ballot for presidential electors. A reference is added to presidential elections in subsection C to recognize the fact that no provision is made in Virginia for write-in votes in presidential elections. The final paragraph of subsection C is existing law in § 24.1-217 on voting machines. It is transferred to this section since it is applicable to all ballots.

The requirement is deleted that a voter mark an "x" by the name of his write-in vote. No mark is required on machine write-in votes and the requirement is not needed for paper ballots since the voter's intent is clear from the fact of his writing in the person's name.

~~§ 24.1-161. How ballots to be marked.—The qualified voters at said election shall designate their preference for candidates for electors of President and Vice-President by marking, as provided in § 24.1-120, the square preceding the name of the political party or party name of his choice, and the ballots so marked shall be counted as if squares preceding the names of the individual electors nominated or selected by such political parties or the groups of petitioners had been so marked.~~

Drafting Note: The provisions of this section are incorporated in subsection B of § 24.2-644 since they relate to the method of marking the ballot.

~~§ 24.1-120~~ 24.2-645 . Defacing Defaced paper ballots accidentally .— ~~Should~~ If any paper ballot be is unintentionally or accidentally defaced in such a way that it is and rendered unfit for voting by such , the voter ; he may deliver such the defaced ballot to the officer of election and receive another. The returned ballot shall be marked spoiled by the officer of election and placed in the spoiled ballot envelope.

Drafting Note: No change in substance.

§ ~~24.1-131~~ 24.2-646 . Voter folds paper ballot and hands same to officer who deposits it unopened in box.—The qualified voter shall fold ~~the~~ each ballot with the names of the candidates and questions on the inside and hand the ~~same~~ folded ballot to the appropriate officer of the election ; ~~who~~ . The officer shall place the ~~same~~ ballot in the ballot box without any inspection further ~~than~~ except to assure himself that only a single ballot has been tendered and that the ballot is a genuine ballot ; ~~for which latter purpose he may, without~~ . Without looking at the printed inside of the ballot, the officer may inspect the official seal ~~upon~~ on the back ~~thereof~~ of the ballot to determine if it is genuine .

Drafting Note: Stylistic changes only.

§ ~~24.1-210~~ 24.2-647 . ~~Demonstration~~ Voting equipment; demonstration on election day.— For the ~~instruction~~ of voters on any election day, there shall be provided for each polling place The electoral board shall provide at each polling place on election day, for the voting device in use, a model of, or materials displaying, a portion of the ~~its~~ ballot face of the machine or device . ~~Such~~ The model or materials shall be located on the table of one of the officers or in some other place accessible to the voters ; and each voter so desiring shall, before voting, be instructed regarding . An officer of election shall instruct any voter, who requests instruction before voting, on the proper manner of voting. The voters' officer may direct the voter's attention may also be called to the diagram of the face of the machine or device to sample ballots so that the voter may become familiar with the location of ~~the~~ questions and the names of the offices and candidates.

In the case of For equipment using ballots to be inserted in electronic counting devices, an officer of election shall provide to , using a demonstration ballot and equipment, shall show each voter so desiring who requests , immediately on entry to the polling place, a ~~demonstration~~ of the manner in which the ballot is to be voted using a demonstration ballot and voting device .

In case If any voter, after entering the voting machine, device or booth, shall ask asks for further instructions concerning the manner of voting, two of the officers, from different political parties ; if possible, shall give such instructions to him, but no officer shall in any manner request, or seek to persuade or induce any such voter to vote for or against any particular ticket, or for or against any particular candidate, or for or against any particular amendment, or question or proposition . After giving such instructions and before the voter votes, the officer shall, before the voter has voted, retire officers shall leave the voting booth , and ~~such~~ the voter shall cast his ballot in secret.

Drafting Note: No change in substance. Officers of election are available to represent each political party and so the phrase "if possible" is deleted.

§ ~~24.1-217~~ 24.2-648 . Write-in votes on voting equipment .— Votes Write-in votes may be cast on voting equipment for any person whose name does not appear on the ballot on the machine or device as a candidate for the office are herein referred to as write-in votes. When two or more persons are to be elected to the same office, an elector may vote for one or more persons whose names appear upon the ballot and for one or more persons whose names do not so appear, provided that the total votes cast for that office do not exceed the number of persons to be elected to that office being voted, subject to this section and the provisions of § 24.2-644 not in conflict with this section .

Each such write in vote must be entered in the receptacle or area designated on the machine or device for the office being voted and, except on machines or devices which provide a ~~mechanism~~ by which the name is electronically entered, must be written by the voter in his own handwriting.

No write in vote shall be counted for any person for any office whose name appears on the ballot as a candidate for that office.—

Each write-in vote shall be entered in the receptacle or area designated on the device for the office being elected. A write-in vote must shall be cast in its appropriate place, or it shall be void and not counted.

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

Except on devices which provide a means to enter a name electronically, each write-in vote shall be entered by the voter in his own handwriting or hand printing.

Drafting Note: The changes do not affect the substance of existing requirements. Portions of existing § 24.1-217 are applicable to paper and voting equipment ballots and are transferred to § 24.2-644. Provisions in § 24.2-644 apply to voting equipment ballots unless in conflict with this section and the three stricken provisions are covered in § 24.2-644 and applicable to both paper and equipment ballots.

~~§ 24.1-222~~ 24.2-649 . Assistance for certain voters.— A. Any voter age 65 or older or physically disabled may request and then shall be handed a paper ballot by an officer of election outside the polling place but within 150 feet of the entrance to the polling place. The voter shall mark the ballot in the officer's presence but in a secret manner and fold and return the ballot to the officer. The officer shall immediately return to the polling place and deposit the ballot in the ballot box in accordance with § 24.2-646.

B. Any qualified voter, who requires assistance to vote by reason of physical disability or inability to read or write, may, if he so requests, be aided in the preparation of his ballot by one of the officers of election designated by himself or assisted in voting. If he is blind, he may designate an officer of election or any other person designated by himself, to assist him. If he is unable to read and write or disabled for any cause other than blindness, he may designate an officer of election or some other person to assist him other than the voter's employer or agent of that employer, or officer or agent of the voter's union ; except that any qualified voter who is blind may be aided by any person he designates . The officer of election or other person so designated shall assist the qualified voter in the preparation of his ballot in accordance with his instructions and without soliciting his vote or in any manner attempting to influence his vote and shall not in any manner divulge or indicate, by signs or otherwise, how the voter voted on any office or issue.

The officer of election or other person so designated shall not enter the booth with the voter unless (i) the voter signs a request stating that he requires assistance by reason of physical disability or inability to read or write and (ii) the officer of election or other person signs a statement that he is not the voter's employer or an agent of that employer, or an officer or agent of the voter's union, and that he will act in accordance with the requirements of this section ; except that neither the request nor statement shall be required to be signed if the voter being assisted is blind . The request and statement shall be signed under oath on a single form furnished by the State Board of Elections . If the voter is unable to sign the request, his own mark acknowledged by him before an officer of election shall be sufficient signature. If the voter being assisted is blind, neither the request nor the statement shall be required to be signed and an officer of election shall advise the voter and person assisting the voter of the requirements of this section and record the name of the voter and the name and address of the person assisting him.

The officer of election or other person so designated shall assist the qualified voter in the preparation of his ballot in accordance with his instructions and without soliciting his vote or in any manner attempting to influence his vote and shall not in any manner divulge or indicate, by signs or otherwise, how the voter voted on any office or question.

For a willful violation of any of the provisions of A person who willfully violates this section; the person so violating subsection shall be deemed guilty of a Class 1 misdemeanor and be confined in jail not less than three nor more than twelve months; provided that . In addition, the provisions of § 24.1-270 24.2-1016 and its felony penalties for false statements shall be applicable to any request or statement signed pursuant to this section under oath .

Drafting Note: Subsection A contains the provision in existing § 24.1-129 for curbside voting by elderly and disabled voters. Subsection B concerns assistance for voters in the polling place and is revised to simplify the language without substantive change except (i) to provide for Class 1, rather than special, misdemeanor penalties and (ii) to cross-reference the proposed false statement provision in § 24.2-1016, which replaces the former perjury provision. Subsection B applies to voting by paper ballots or voting equipment and the term voting booth applies to all voting enclosures. Existing § 24.1-220 is incorporated in subsection B.

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

Drafting Note: This section is incorporated in proposed § 24.2-649, subsection B, which is applicable to voting by paper ballot or voting equipment.

~~§ 24.1-132.1~~ 24.2-650 . Officers to sign only official papers, etc.—No officer of election shall sign or otherwise mark any paper, form , or item, other than one furnished by the State Board of Elections , his electoral board , or general registrar, at his polling place during the hours that the polls are open.

Drafting Note: No change in substance.

~~§ 24.1-132~~ 24.2-651 . ~~Who may challenge Voter who is challenged ; how challenge tried.—Any qualified voter may, and it shall be the duty of the officers of election to shall , challenge the vote of any person who may be is listed on the precinct registered voter list but is known or suspected not to be a duly qualified voter.~~

When any person is so challenged, an officer shall explain to him the qualifications of a voter ; and may examine him as to the same; and if concerning his qualifications.

The officers of election are hereby authorized to administer the necessary oath or affirmation to any witness brought before them to testify as to the qualifications of any person offering to vote.

If the person being challenged insists that he is qualified ; and the challenge is not withdrawn, one of the officers shall tender to him give him a form containing the following oath which he shall take and subscribe statement : "I do solemnly swear (or affirm) under penalty of perjury hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that I am a citizen of the United States, that I am at least eighteen years of age (or will be on the day of, ..), that I am a resident of the Commonwealth of Virginia (or that I have been a resident of this Commonwealth within the preceding thirty days and am voting only for electors of President and Vice-President of the United States), and that, according to the best of my knowledge, information and belief, I am not disqualified from voting by the Constitution and laws of this Commonwealth; that my full name is; that in such name I was duly registered as a voter of this precinct; that I am now or at some time since the last November general election have been an actual resident of the same; that I am the identical person I represent myself to be; and that I have not voted in this election at this or any voting place and will not vote in this election at any other voting place. So help me God. " If he refuses to take such oath his vote shall be rejected; if, however, he does take it, his vote shall be received. And the officers of election are hereby authorized to administer the necessary oath or affirmations to all witnesses brought before them to testify as to the qualifications of any person offering to vote. When the vote of any person shall be received, after having taken the oath prescribed in this section, it shall be the duty of

If the person challenged refuses to sign the statement, he shall not be permitted to vote. If, however, he signs the statement, he shall be permitted to vote on the voting system in use at the precinct.

When the voter has signed the statement and is permitted to vote, the officers of election to write shall indicate on the pollbook, at the end of after the name of such person, the word "sworn;" that he has signed the required statement.

If the oath on the envelope containing a voted absentee ballot has been properly subscribed signed by the voter, such ballot shall not be subject to challenge pursuant to this section.

Drafting Note: No change in substance. The requirement for an administered oath to the challenged voter is replaced by the requirement for a signed statement subject to comparable penalties.

~~§ 24.1-65~~ 24.2-652 . ~~Voter whose name erroneously deleted omitted from books precinct registered voter list .— If any voter whose name has been erroneously deleted from the registration books, except by purge pursuant to §§—24.1-60 through 24.1-62, shall appear at any election and offer to vote, upon being informed by the general registrar that he is registered to vote, and upon satisfactory proof that he is qualified to vote and that he has not changed his residence since his registration, his name shall be restored to the registration books by the officers of election, and he shall be permitted to vote. In such event the voter shall swear, under penalty of perjury, When a person offers to vote and his name does not appear on the precinct registered voter list, the officers of election shall permit him to vote only if all of the following conditions are met:~~

1. *An officer of election is informed by the general registrar that the voter is registered to*

vote, that his registration has not been cancelled, and that his name is erroneously omitted from the precinct registered voter list.

2. The voter signs a statement, subject to felony penalties for false statements pursuant to § 24.2-1016, that he is a duly qualified and registered voter of that precinct, a resident of that precinct, and not subject to purge pursuant to §§ ~~24.1-50 through 24.1-62~~. If such person takes the oath, he shall then provide, and the officer of election shall enter on the registration book used at the polls, his registration is not subject to cancellation pursuant to §§ 24.2-430 through 24.2-432; and he provides, subject to such penalties, all the information required to identify such person himself including social security number, if any, full name including the maiden or any other prior legal name, birthdate, and complete address; and such person shall then be given a ballot.

3. The officer of election enters the identifying information for the voter on the precinct registered voter list.

When the vote of any such person shall be received, after having been administered the oath, it shall be the duty of voter has signed the statement and is permitted to vote, the officers of election to write shall indicate on the pollbook, at the end of after the name of such person, the word "sworn," that he has signed the required statement.

Drafting Note: Revised to state present law procedures more plainly without substantive change and to incorporate the reference to the proposed false statement penalties of § 24.2-1016.

§ ~~24.1-55.1~~ 24.2-653 . How certain votes treated. Voter whose name does not appear on precinct registered voter list. — A. When a person offers to vote pursuant to § ~~24.1-55~~ 24.2-652 and the general registrar is not available or cannot state that he the person is registered to vote, then such vote person shall be allowed to vote by paper ballot in the manner provided for herein in this section.

Such person shall be given a ballot and a green envelope provided by the State Board of Elections, bearing on the outside such identifying information as required by the Board.

Such person shall be given a paper ballot and provide, subject to the penalties for making false statements pursuant to § 24.2-1016, on a green envelope supplied by the State Board, the identifying information required in § 24.2-652. The officers of election shall enter the appropriate information for the person on the precinct registered voter list but not mark his name as having voted nor enter it on the precinct pollbook.

He The voter shall then and there, in the presence of an officer of election, but in a secret manner, mark the ballot; as provided in § ~~24.1-120~~, and, without making known the manner of marking same, 24.2-644 and seal it in the green envelope provided, on which the officer shall complete the information required. The envelope containing the ballot shall then be placed in the ballot box by an officer of election.

The An officer of election shall inform the voter shall be informed that a determination of his right to vote shall be made by the electoral board on the following day in the general registrar's office, or some other designated room in the courthouse in the county or city and shall be advised and advise the voter of the beginning time at which such determination shall commence and place for the board's meeting.

§ ~~24.1-55.2~~ Duty of electoral board and registrar concerning certain votes. — Notwithstanding any provision of law to the contrary, when votes are counted, those B. The votes cast pursuant to § ~~24.1-55.1~~ shall subsection A, in their unopened envelopes, shall be sealed in a special envelope marked "Challenged Votes," inscribed with the number of envelopes contained therein, and subscribed signed by the officers of election who counted them. Such envelopes shall by noon of the day following the election All challenged votes envelopes shall be delivered to the clerk of the circuit court who shall immediately deliver all such envelopes to the secretary of the electoral board.

The members of the electoral board shall proceed to meet on the day following the election and determine whether each person having cast such a ballot was entitled to do so. One authorized representative of each political party or independent candidate in a general election or one authorized representative of each candidate in a primary or special election, who is a qualified voter of the city or county, shall be permitted to remain in the room in which the determination is being made so long as he does not hinder, delay or otherwise impede the orderly conduct of the determination.

If the electoral board determines that such person was not entitled to vote, or is unable to determine his right to vote, the envelope containing his ballot shall not be opened and his vote shall not be counted. The general registrar shall notify in writing pursuant to § ~~24.1-46~~ 24.2-114 those persons found not properly registered.

If the electoral board determines that such person was entitled to vote, *the precinct registered voter list shall be so marked, the name of the voter shall be entered in a challenged votes pollbook*, the envelope shall be opened, and the ballot placed in a ballot box without any inspection further than that provided for in § ~~24.1-131~~ 24.2-646.

~~Upon~~ On completion of its determination, the electoral board shall proceed to count such ballots and certify the results of such its count. ~~Such~~ Its certified results shall be added to those found pursuant to § ~~24.1-146~~ 24.2-671. *No adjustment shall be made to the statement of results for the precinct in which the person offered to vote.*

The certification of the results of the count together with all ballots and envelopes, whether open or unopened, and other related material shall be delivered by the electoral board to the clerk of the circuit court and retained by him as provided for in §§ ~~24.1-143~~ and ~~24.1-144~~ 24.2-668 and 24.2-669.

Drafting Note: No change in substance. Existing §§ 24.1-55.1 and 24.1-55.2 are brought together in one section to address the procedure for a voter to vote who is not listed as registered. The requirement under present practice of an oath on the challenged vote envelope is replaced by the reference to the false statements statute.

§ ~~24.1-136~~ 24.2-654. Officers to lock and seal voting equipment and ascertain vote after polls closed; statement of results.—As soon as the polls are finally closed, the officers of election shall lock each voting and counting device against further voting. They shall then proceed to ascertain the vote given at the election and such ascertainment shall continue without adjournment until they declare the result thereof is declared results of the election. They shall seal the devices.

In ascertaining the vote, the officers of election shall complete a statement of results in duplicate on the form and in the manner prescribed by the State Board of Elections.

Drafting Note: This section and the next several sections spell out the steps taken after the polls close. The requirement to lock the voting equipment is the first step and so stated at the outset. The language is transferred from existing § 24.1-222 without substantive change. The provisions applicable to paper ballots and voting machines are merged in these sections to avoid duplication and to give a complete picture of the post-election process in one article.

§ ~~24.1-127~~ 24.2-655. Representatives of political parties and candidates to be present on request.—The ballots shall not be taken from the box in secret, but shall be in the presence of not more than two representatives from each political party represented in the election and a representative from each independent candidate or primary candidate if such representatives request the officers of election to allow them to be present when the ballots are taken from the box, and such representatives shall be entitled to be present and witness the count of the ballots and the making up of the returns as hereinafter provided. Before proceeding to ascertain the vote, the officers of election shall determine whether no more than two representatives of each political party having candidates in the election and one representative of each independent candidate or primary candidate request to be present while the absentee ballots are cast, votes are counted, and returns are completed.

Each representative, who shall be a qualified voter of the city or county in which the polling place is located, and shall have and present to the officers of election a written statement certifying that he is an authorized representative, signed by his respective party chairman for the jurisdiction in which the election is held or the respective, the independent candidate designating that person to be a representative of that party or candidate for the purposes of this section or by, or the candidate in a primary that he is a representative of the candidate, as appropriate. Such representatives shall be entitled to be present while the votes are counted and shall remain until the returns are completed.

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

the ballot boxes and ascertain and count the votes. candidates so that there are as many as four bystanders and representatives present.

Drafting Note: No change in substance.

§ 24.2-656. *Officers to sign pollbooks.*— As soon as the last absentee ballot, if any, is cast, the officers of election shall write on the pollbook immediately following the name of the last voter the words "Polls Closed," the date of the election, and the time of their endorsement. They shall sign the pollbook immediately following their endorsement and proceed to ascertain the vote.

Drafting Note: No change in substance. This provision is taken from § 24.1-135 and set out separately in following the election day chronology.

~~§ 24.1-222~~ 24.2-657. *Determination of vote on voting equipment.*— As soon as the polls of election are closed the officers of election shall immediately lock and seal each voting machine and counting device against further voting. In the presence of all persons who may be lawfully present present lawfully at the time, giving full view of the voting equipment and counters or counting devices, they printed return sheets, the officers of election shall determine and announce the results as shown by the counters or printed return sheets, including the votes recorded for each office on the write-in ballots, and shall also announce the vote upon on every amendment, proposition or question voted upon . The vote as registered shall be entered on a the statement of results in duplicate on the form and in the manner prescribed by the State Board of Elections and when . When completed , the statement shall be compared with the number on the counters of the machines on the equipment or on the printed return sheets. When found to be correct the statements shall be duly certified and sworn to and returned and filed as provided in §§ 24.1-142 and 24.1-143. If the numbers counted by all machines or devices If, on all mechanical or direct electronic voting devices, the number of persons voting in the election or the number of votes cast for any office or on any question, total more than the number of names on the pollbooks of persons voting on machines or the devices, the figures recorded by the machines or devices shall be accepted as correct; provided, however, that a . A statement to that effect shall be entered by the officers of election in the space provided on the statement of results.

Drafting Note: The requirement to lock and seal voting equipment is set out in proposed § 24.2-654. The provision to sign and certify the statement of results is set out in proposed § 24.2-667.

~~§ 24.1-222.1~~ 24.2-658. *Machines or device Devices with printed return sheets; disposition of sheets.*—If machines or devices of the type that print returns are used, the printed inspection sheet and two copies of the printed return sheet containing the results of the election for each machine or device shall be inserted in the envelope containing the pollbooks by the officers of election and sealed and returned as required by § 24.1-143 24.2-668 .

The printed inspection sheets and one copy each of such of the printed return sheets shall be kept with the pollbooks and preserved as provided in § 24.1-144 24.2-669 .

One copy each of such of the printed return sheets shall be made available by the clerk of the circuit court on the day following the election and for sixty additional days thereafter for inspection and transcribing information therefrom by the public.

Drafting Note: No change in substance.

~~§ 24.1-222~~ 24.2-659. *Count of absentee voters' ballots and write-in ballots.*— If paper ballots have been voted by absentee voters, such ballots shall be counted and tallied and the vote thereon for each candidate, amendment or proposition added to the vote as recorded on the voting machine or device and included in the statement of results. Such ballots and any paper write-in ballots shall be enclosed in a sealed package, properly endorsed, and returned and filed with the clerk of the circuit court.

Drafting Note: The provisions in this section are covered by §§ 24.2-661 through 24.2-667 which provide for counting paper ballots generally and do not need to be restated.

~~§ 24.1-224~~ 24.2-659 . Locking of voting ~~machines~~ and counting devices after election and delivering of keys to clerk; printed returns as evidence.—After ~~the officers of election lock and seal each voting machine and counting device shall have been locked by the officers of election~~, the equipment keys ~~thereto~~ shall be enclosed in a sealed envelope ~~having which shall be sealed and have endorsed thereon a certificate of the officers an officer of election stating the election precinct, the number of the machine or each device, the election precinct, the number on the seal, and the number of the protective counter, if one, and on the device. The sealed envelope shall be returned and delivered by one of the officers of the election to the clerk of the circuit court, where the election was held. The custodians of the voting equipment shall enclose in a sealed and seal in an envelope, properly endorsed, the all other keys to all machines or devices voting equipment in their jurisdiction and deliver same the envelope to the clerk of the circuit court by noon on the day following the election.~~

The voting ~~machines~~ and counting devices shall remain locked *and sealed* for the period of fifteen days after the results of the election have been ascertained and as ~~much longer as may be necessary or advisable because of any threatened contest over the result of the election, except as may be necessary to prepare the machines or counting devices for another election, and, if any contest or recount is pending thereafter, until it has been concluded. The devices shall only be opened and all data examined only (i) upon on the order of a court of competent jurisdiction or (ii) upon on the request of an authorized representative of the State Board of Elections or the electoral board at the direction of the State Board of Elections in order to insure ensure the accuracy of the returns.~~

~~Where~~ When recounts occur in precincts using ~~printed return type machines or counting devices mechanical or direct electronic voting devices with printed return sheets~~, the printed ~~returns made return sheets delivered~~ to the clerk may be used as the official evidence of the results.

When the ~~proper~~ required time has expired, the clerk of the circuit court shall return all voting ~~machine or device equipment~~ keys to the electoral board.

Drafting Note: No change in substance except that the language in the next-to-last paragraph is revised to address an ambiguity in present law related to recount procedures. The printed return sheets produced by voting equipment are the best evidence of the results for mechanical and direct electronic voting devices which do not use any type of paper ballot.

New types of equipment use paper punchcard or marksense ballots with electronic counters. For these newer types of equipment, the ballots can be reprocessed in a recount and are better evidence of the results of the election than are the printed return sheets produced by the counters. Recount courts have followed inconsistent procedures under the present law and either relied on the printed return sheets or ordered punchcard ballots to be reprocessed. The revised next-to-last paragraph covers mechanical and direct electronic voting equipment, but excludes the type of equipment that uses punchcard or marksense ballots. Under proposed § 24.2-802 in the chapter on recounts, language is added to require the reprocessing of punchcard ballots instead of relying on the printed return sheets.

~~§ 24.1-222.2~~ 24.2-660 . ~~Machines or devices~~ Devices with memory cartridges.—If a direct electronic voting ~~machine or device~~ retains in its internal memory at least two sets of the results of any election, its memory cartridge shall be removed and delivered under seal to the electoral board of the county or city not later than noon on the day following the election. The electoral board may use the memory cartridges from all precincts for tallying the vote totals for the jurisdiction immediately after the election and in ascertaining the results of the election. The memory cartridge shall not thereafter be subject to the security requirements of ~~§ 24.1-224~~ 24.2-659 so long as the results of the election are otherwise retained and secured within the machine or device.

Drafting Note: No change in substance.

~~§ 24.1-138~~ 24.2-661 . Detection and setting aside of double ballots.—~~The~~ After the votes on all voting and counting equipment have been determined and recorded, the officers of election shall ~~at once~~ proceed to examine and count the paper ballots to ascertain if any double ballots have been cast, and whether the number of ballots corresponds with the number of names on the pollbooks of persons who voted on paper ballots; ~~and if~~ . If two or more separate ballots are found so folded together as to represent the appearance of a single ballot they shall be laid aside until the count of the ballots is completed. If, upon a comparison of the count, and the number of names of such qualified voters on the pollbooks, it appears that the two or more

ballots thus folded together were cast by the same qualified voter, they shall be set aside and not counted.

Drafting Note: No change in substance. The paper ballot count usually follows the equipment count.

~~§ 24.1-139~~ 24.2-662 . Procedure when paper ballots exceed names on pollbooks.—If the ballots in the box are found to exceed the number of names on the pollbooks of persons who voted on paper ballots, all ballots shall be replaced in the ballot box ; and . Then, after the same shall be box is well shaken, one of the officers an officer of election, being blindfolded, shall draw therefrom withdraw a sufficient number of ballots to reduce the same to a number equal of ballots left in the box to the number of such names of such electors on the pollbooks. Such The drawn ballots shall be set aside and not counted.

Drafting Note: No change in substance.

~~§ 24.1-140~~ 24.2-663 . When ballot void.—If a ballot is found to have been voted for a greater number of names for any one office than the number of persons required to fill the office, or if the title of the office is erased, the ballot shall be considered void as to all the names designated to fill such office, but no further. No ballot shall be void for having been voted for a less number of fewer names than is authorized to be inserted therein .

If any person votes, either in person or absentee, more than one time in an election, all ballots received from such person shall be void and, if possible, not counted. If one such ballot has already been cast, any additional ballots received from such person shall be void and not counted.

Drafting Note: No change in substance.

~~§ 24.1-141~~ 24.2-664 . Reduction in number of ballots.—Whenever the number of ballots is reduced by fraudulent or void ballots below the number of names of qualified voters on the pollbooks who voted on paper ballots, the cause of such reduction shall be stated in the space provided on the statement of results.

Drafting Note: No change.

~~§ 24.1-142~~ 24.2-665 . How votes paper ballots counted and returns made; statement of results — After the pollbooks are signed A. When the number of paper ballots to be counted has been verified , the officers shall ; in the presence of such persons as shall be present under §-24.1-137, proceed to ascertain the number of votes cast by paper ballots for each person voted for. The ballots shall be individually counted; and as and for and against each question. The votes on all ballots for all offices and questions shall be counted. As soon as all ballots are counted, they shall be placed in an envelope or container labeled "counted ballots." No person other than the officers of the election shall handle the ballots.

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

At the conclusion of the count, the officers of election shall sign both copies of the statement of results affirming that the statement is complete and the information thereon is true and correct. Both copies of the signed statement of results shall be inserted in the last pollbook for the precinct.

Drafting Note: The final paragraph of existing § 24.1-142 is shifted to proposed § 24.2-667 so that the requirement to sign the statement of results follows both paper and machine ballot counting procedures.

~~§ 24.1-143~~ 24.2-666 . Procedures to account for paper ballots.— It shall be the duty of the The State Board of Elections to shall prescribe appropriate forms and procedures for use by the local electoral boards, general registrars , and officers of election to account for all paper ballots, used and unused.

Drafting Note: No change in substance.

§ 24.2-667. *Completion of statement of results.*—At the conclusion of determining the votes cast on voting devices and paper ballots, the officers of election shall verify that all required data has been accurately entered, sign both copies of the statement of results, and affirm that the statement is complete and the information thereon is true and correct.

Drafting Note: The requirement to sign the statements of results is stated in existing §§ 24.1-142 and 24.1-222. This provision covers both situations.

~~§ 24.1-142~~ 24.2-668 . Pollbooks, statements of results, and ballots to be sealed and delivered to clerk.—After ascertaining the votes in the manner aforesaid results and before adjourning , the officers , before they adjourn, shall put in an envelope the pollbooks and , the duplicate statements of results, and any printed inspection and return sheets in the envelopes provided by the State Board. The officers shall seal the same, envelopes and direct it them to the clerk of the circuit court of for the county or city in which the election is held; and the . The pollbooks and , statements , and sheets thus sealed and directed, together with the sealed counted ballot ballots envelope or container, and the unused, defaced, spoiled and set aside ballots properly accounted for, packaged and sealed, shall be conveyed by one of the officers to be determined by lot, if they cannot otherwise agree, to the clerk of court to whom they are directed by noon on the day following the election ; there to remain until after results of the election have been ascertained as provided in §24.1-146

The clerk shall retain custody of the pollbooks until the time has expired for initiating a recount, contest, or other proceeding in which the pollbooks may be needed as evidence and there is no proceeding pending. After that time the clerk shall deliver the pollbooks to the general registrar who shall preserve them for five years from the date of the election. The clerk shall retain the statement of results and any printed inspection and return sheets for two years and may then destroy them.

Drafting Note: No change in substance. The final paragraph on delivering and preserving pollbooks is taken from § 24.1-144 so that the provisions on delivering and preserving pollbooks are placed in one section.

~~§ 24.1-144~~ 24.2-669 . Clerk to keep ballots for two years; inspection; destruction.—The clerk to whom the counted and uncounted ballots are delivered as aforesaid shall, without breaking the seal, deposit them in a secure place in his office, where they shall be safely kept for the appropriate time set forth below in required by this section ; and he . He shall not allow the same ballots to be inspected except (i) by an authorized representative of the State Board of Elections or by the electoral board at the direction of the State Board of Elections in order to insure to ensure the accuracy of the returns or the purity of the election, (ii) by the officers of election, and then only at the direction of the electoral board in accordance with § 24.1-147-24.2-672 when the provisions of § 24.1-139 24.2-662 have not been followed, or (iii) on the order of a court before which there is pending a proceeding for a contest or recount under Chapter 8 (§ 24.1-226-1 24.2-800 et seq.) of this title or before whom there is then pending a proceeding in which the ballots are necessary for use in evidence.

~~Whenever~~ After the counted ballots required by law to be returned to the clerk's offices in this Commonwealth shall have remained in the offices clerk's office for as much as two years, if no election contest or other proceeding be is pending in which such ballots may be needed as evidence, the clerk of such offices shall destroy such ballots. Whenever the pollbooks and After the unused ballots required by law to be returned to the clerk's offices shall have remained in the offices until the clerk's office and the time shall have has expired for initiating an election a recount, contest , or other proceeding in which such books or ballots may be needed as evidence and no such contest or proceeding is pending, the clerk shall then deliver such pollbooks to the general registrar who shall preserve them for five years from the date of the election, and the clerk may then destroy such the unused ballots.

Drafting Note: No change in substance. The provisions on pollbooks are transferred to § 24.2-668.

~~§ 24.1-145~~ 24.2-670 . Clerk to send for books and ballots on failure of if not delivered by officers to return .—If from any cause the officers of election shall fail to make return, as provided deliver the materials to clerk of the circuit court as required by § 24.1-143 24.2-668

within the time limited by § 24.1-146 before the time for the electoral board to meet and open the returns, it shall be the duty of the clerk to whose office such returns ought to have been made to of the circuit court shall dispatch a law-enforcement officer, to obtain such returns, a law-enforcement officer, who shall be subject to the same penalties and entitled to the same compensation as an officer of election for such service.

Drafting Note: No change in substance.

~~§ 24.1-146~~ 24.2-671 . Electoral board to meet and open returns and ascertain result results ; conclusiveness of result so ascertained results .—Each electoral board shall meet at the clerk's office ; and may adjourn to the principal office of the general registrar, of the county or city for which they are appointed at or before 5:00 p.m. of on the day after any election held therein, and proceed to . The board may adjourn to the principal office of the general registrar. It shall open the several returns which shall have been made at delivered to the clerk's office by the officers .

The board shall ascertain from the returns the persons who have received the greatest number of votes in the county or city for the several offices to be filled at the election the total votes in the county or city, or town in a town election, for each candidate and for and against each question and complete the abstract of votes cast at such election, as provided for in § 24.1-150 24.2-675 . The For offices for which the electoral board issues the certificate of election, the result so ascertained, signed and attested, shall be conclusive and shall not thereafter be subject to challenge by any person except as specifically provided in Chapter 8 (§ ~~24.1-236.1~~ 24.2-800 et seq.) of this title.

Once the result is so ascertained, the secretary of the electoral board shall return to the clerk all pollbooks and one copy of each statement of results. The secretary shall then deliver the second one copy of each statement of results to the general registrar to be available for inspection when his office is open for business. The secretary shall then return all pollbooks, any printed inspection and return sheets, and one copy of each statement of results to the clerk.

Drafting Note: No change in substance.

~~§ 24.1-147~~ 24.2-672 . Board Electoral board to correct irregularities in returns of officers of election.— If it shall appear to any While ascertaining the results of an election, the electoral board ; in determining the persons who have received the greatest number of votes for the several offices voted for in such election, may find that there are irregularities or informalities occur in the returns of the officers of election which can be cured by amending or correcting the same, it shall be the duty of returns. Then the board immediately to shall summon such officers, or such of them as may be requisite , to appear before the board on the date of the summons or the next date thereafter, for the purpose of amending such the officers of elections required to amend the returns so that the same may conform to the law. The summons may be executed by any person authorized by law to serve summonses for witnesses.

Drafting Note: No change in substance.

~~§ 24.1-148~~ 24.2-673 . Candidates having highest number of votes to receive certificate of election.—Except in the case of a recount pursuant to the provisions of Chapter 8 (§ ~~24.1-236.1~~ 24.2-800 et seq.) of this title, in all elections for the choice of any officer, unless it is otherwise expressly provided, the person having the highest number of votes for any office shall be deemed to have been elected to such office and shall receive the certificate of election.

Drafting Note: No change in substance.

~~§ 24.1-149~~ 24.2-674 . Determination by lot in case of tie.—If two or more persons have an equal number of votes for any county, city, town, or district office, and a higher number than any other person, the electoral board shall proceed publicly to determine by lot which of the candidates shall be declared elected.

If any two or more persons have an equal number of votes and a higher number than any other person for member of the General Assembly or of the Congress of the United States, or elector of President and Vice-President of the United States, the State Board of Elections shall proceed publicly to determine by lot which of them shall be declared elected. Reasonable notice shall be given to such candidates of the time when such elections shall be so determined; and if

they, or either of them, shall fail to appear in accordance with such notice, the Board shall proceed so as to determine the election in their absence.

~~Provided, however, that any Any person falling within this section who loses the determination by lot may utilize the provisions of §§ 24.1-249 and 24.1-250 concerning recount petition for a recount pursuant to § 24.2-800 et seq. .~~

Drafting Note: Clarifying changes only.

§ ~~24.1-150~~ 24.2-675 . Abstracts of votes to be made by secretary and forwarded to State Board of Elections and to clerks.— ~~So~~ As soon as the electoral board ~~shall determine~~ determines the persons who have received the highest number of votes for any office, the secretary shall make out ~~abstracts an abstract~~ of the votes ; one abstract for each of the following: Governor; Lieutenant Governor; Attorney General; members of the Senate of Virginia; members of the House of Delegates; members of the United States Senate; members of the United States House of Representatives; electors of the President and Vice-President of the United States; each county office; each city office; each district office; each town office; and such others as may be required for statewide ~~measures or propositions~~ referenda . ~~Such~~ The abstracts shall contain the names of all persons receiving any vote for each office and the total number of votes received by each ~~such~~ person or voted for or against each ~~measure or proposition~~ question .

The abstracts, ~~being~~ shall be certified and signed by the electoral board ~~and~~ , attested by the secretary, ~~shall be and~~ retained by the electoral board as part of its records ; ~~and an original~~ . A copy of each, certified under the official seal of the electoral board, shall be forwarded ~~immediately to the State Board of Elections by mail immediately be mailed or delivered by hand to the State Board~~ . The State Board of Elections shall require the electoral board of any county or city to correct any errors found on such abstracts prior to completing the requirements of § ~~24.1-154~~ 24.2-679 .

One certified copy of each abstract of votes shall be forwarded (i) to the clerk of the city council or board of supervisors and recorded in its record book , (ii) for town elections, to the clerk of the town council and recorded in its minute book, and (iii) for each local referendum, to the circuit court for the locality .

Drafting Note: No change in substance. The provisions in the final paragraph are present law and summarized in this section.

§ ~~24.1-151~~ 24.2-676 . Secretary to make out and deliver certificate of election.— ~~The~~ Immediately after the electoral board has determined the election results, the secretary shall ~~immediately~~ make out ; in pursuance of the determination of the electoral board, a certificate certificates of election for each of the persons having the highest number of votes for any for each county, city, town, or district office ; but not for any officer other than an office shared by more than one county or city, or any combination thereof ; . The secretary shall make out the certificate for each of the persons who has the highest number of votes for the office, who has sufficient votes to be elected to a multi-member office, or, in case of a tie, who have has been decided by lot to be elected. The secretary, or another board member or registrar designated by the secretary, shall deliver in person or the secretary shall transmit by certified mail the ~~same~~ certificate to the person elected, as soon as such person has complied with the provisions of § ~~24.1-260~~ 24.2-922.

Drafting Note: No change in substance.

§ ~~24.1-152~~ 24.2-677 . State Board of Elections to open and record returns; application of Freedom of Information Act.—The State Board of Elections ~~upon~~ , on receipt of the certified abstracts of the votes given in the several counties and cities directed to be sent to it , shall ~~proceed to open the same, and shall~~ abstracts and record and carefully preserve them.

The provisions of Chapter 21 (§ 2.1-340 et seq.) of Title 2.1, the Virginia Freedom of Information Act, shall not apply to the certified abstracts of the votes or any other documents used by the Board in ascertaining the results of any election until ~~such~~ the results have been finally determined by the Board.

Drafting Note: No change in substance.

~~§ 24.1-153~~ 24.2-678 . Law-enforcement officer to be sent for abstracts not forwarded.—If from any county or city no such abstract of votes shall have been received by the State Board of Elections has not received the abstracts of votes from any county or city within seven days next after any election, it shall dispatch a law-enforcement officer to obtain a copy of the same abstract from the official having charge thereof ; and such . That official shall immediately, on demand of such the officer , make out and deliver to him the copy required, which copy of the abstract of votes and the officer shall deliver the abstract to the State Board of Elections without delay ; to be recorded as aforesaid .

Drafting Note: Stylistic changes only.

~~§ 24.1-154~~ 24.2-679 . State Board of Elections to meet and make statement as to number of votes.— For the purpose of ascertaining the result of elections, the A. The State Board of Elections shall meet on the fourth Monday in November to ascertain the results of the November election . If a majority of the Board are not present or if, for any other reason, the Board is incapable of ascertaining the result of elections unable to ascertain the results on the fourth Monday in November that day , the meeting shall stand adjourned until the next day and so from day to day for not more than three days until a quorum be is present and the Board has ascertained the result of elections results as provided in this section.

The Board shall ; upon the certified abstracts on file in its office, proceed to examine the certified abstracts on file in its office and make statements of the whole number of votes given at any such election for members of the General Assembly, Governor, Lieutenant Governor and Attorney General, members of the United States Congress and electors of President and Vice-President of the United States, and any officer shared by more than one county or city, or any combination thereof, or for so many of such officers as have been voted for at such the election.

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

B. The State Board shall meet as soon as possible after it receives the returns for any special election held at a time other than the November general election to ascertain the results of the special election in the manner prescribed in subsection A. If the returns have not been received within seven days of the election, the Board shall meet and adjourn from day to day until it receives the returns, ascertains the results, and makes its determination.

Drafting Note: Stylistic changes in subsection A. Subsection B is transferred to this section from existing § 24.1-155 because it concerns the time for the State Board to meet and determine the results of elections.

~~§ 24.1-155~~ 24.2-680 . Certificates of election.—Subject to the requirements of § 24.1-260-24.2-922 , the State Board of Elections shall without delay make out complete and transmit to each of the persons thereby declared to be elected a certificate of his election, certified by it under its seal of office. In the election of a member of the United States Congress of the United States , it shall also forward a certificate of election of such member to the clerk of each such body, respectively the United States Senate or House of Representatives, as appropriate . The names of those members elected to the General Assembly shall be certified by the State Board of Elections to the clerk of each body, respectively the House of Delegates or Senate, as appropriate . The names of the persons elected Governor, Lieutenant Governor, and Attorney General shall be certified by the State Board of Elections to the Clerk clerks of the House of Delegates and the Clerk of the Senate of Virginia . The name of any officer shared by more than one county or city, or any combination thereof, shall be certified by the State Board of Elections to the clerk of the circuit court having jurisdiction in each affected county or city.

In cases of special elections to fill vacancies held at any other time than that fixed for general elections, the State Board of Elections shall meet as soon as possible after the returns of

~~such elections are received for the purpose of ascertaining the result of such special elections in the manner hereinbefore set forth. But if the abstracts, or any of them, shall not be received within seven days from the election, the Board shall meet and adjourn from time to time until the abstracts shall be received and the result of such election determined.~~

Drafting Note: The final paragraph is shifted to subsection B of the preceding section since it relates to the time the Board must meet to determine the outcome of elections. Other changes are stylistic only.

Article 5.

Special Elections.

~~§ 24.1-164 24.2-681 . How special elections superintended and determined.—All special elections ; and all elections to fill vacancies in office, shall be superintended and held, notice thereof given, ballots prepared, returns made and certified, votes canvassed, results ascertained and made known, and certificates of election given, by the same officers, under the same penalties, and subject to the same regulations as prescribed for general elections, except so far as may be otherwise provided ; and except also that in case where there is a vacancy in the office of any officer who has some duty to perform in such election, the duties of such officer shall be performed by such other officer or person as shall be appointed for that purpose by law . The order of the names appearing on the ballot shall be determined as provided for in general elections.~~

Drafting Note: This provision applies to all special elections and is moved to the beginning of the article on special elections. It is continued without substantive change and states the basic proposition that these elections are to be conducted in the same manner as general elections unless otherwise provided by law. The balance of the article sets out specific provisions applicable to special elections. Other statutes also regulate and provide for special elections. The direct conduct of the election must be addressed by general law. Article IV, Section 14 (11). Certain matters may be addressed by a special act or charter. For example, there may be special notice requirements for unique referendum elections. The provision on a vacancy affecting an officer with duties to perform in an election is deleted because it is unnecessary. The filling of these vacancies is covered by other provisions of law equally applicable to general and special elections.

~~§ 24.2-682. Times for special elections.—Notwithstanding any charter or special act to the contrary, the following provisions govern the times for holding special elections. Every special election shall be held on a Tuesday. No special election shall be held within the sixty days prior to a general or primary election. No special election shall be held on the same day as a primary election. A special election may be held on the same day as a general election.~~

~~A referendum election shall be ordered at least sixty days prior to the date for which the referendum election is called.~~

~~A special election to fill a vacancy in any county, city, or town office, including school board member, or in any constitutional office, regularly elected in a November general election, shall be held on a November general election day. A special election to fill a vacancy in any city or town office, including school board member, regularly elected in a May general election, shall be held on a regular May general election day.~~

Drafting Note: Proposed § 24.2-682 brings together the provisions from existing §§ 24.1-1 (5) (c), 24.1-163, and 24.1-165 which regulate the time when a special election may be held to fill a vacancy or conduct a referendum. There are several limitations now applicable to all special elections. First, the election must be scheduled on a Tuesday. (Source: § 24.1-1 (5) (c), limit enacted in 1982.) Second, no special election can be scheduled to be held during the sixty days immediately prior to a general or primary election. (Source: §§ 24.1-163 and 24.1-165, limit enacted in 1974.) This limit is made applicable to every category of special election in proposed § 24.2-682. Present § 24.1-163 is not precisely clear on the point whether this limit applies to all special elections to fill vacancies. The existing section states this limit in general terms, but the limit is placed in a paragraph applicable to special elections for constitutional and local offices. The ambiguity is resolved by making the limitation apply to all special elections since the rationale for the limit is the need to have sixty days to set up election machinery for general and primary elections. This rationale is as valid for special elections to fill vacancies in the General Assembly or House of Representatives as it is for other special elections. Third, no special election can be scheduled on the same day as a primary election. (Source: §§ 24.1-1 (5)

(c) and 24.1-165, limits enacted in 1989 and 1978.) Note, that if no primary election has been called in a jurisdiction, it may be possible to hold a special election during the sixty days before the primary and on the primary date. If a May election is scheduled in a town within a county, the Attorney General has opined that the county may conduct a referendum during the sixty days before the municipal election and that a town election does not constitute a county general election for purposes of applying § 24.1-165.

The second paragraph is taken from existing § 24.1-165 and requires a sixty-day interval between the order for a referendum and the date of the referendum. This requirement assures a minimum period to prepare for the referendum, to give voters proper notice, and to submit the order for the special election to the Department of Justice for review under § 5 of the Voting Rights Act. This provision is not applicable to special elections to fill vacancies. In some cases, less advance notice may be justified in vacancy situations. For example, a vacancy in the legislature occurring just prior to a session may warrant a special election in a shorter time frame and expedited review by the Department of Justice. Under proposed § 24.1-226, when there is no other applicable law, there must be a 120-day interval between the date the vacancy occurs in a local office and the special election to fill the vacancy and the special election must be held on a May or November general election day. This interval gives time for Voting Rights Act review and setting up election machinery prior to the day of the election.

The third and final paragraph of proposed § 24.2-682 is taken from § 24.1-1 (5) (c). It requires special elections to fill vacancies in local offices, including constitutional offices, to be scheduled for a November general election day if the office is one usually voted on in November and to be scheduled for a May general election day if the office is one usually voted on in May. The policies underlying present law are to avoid municipal elections in November because of possible differences between town and county precincts and, generally, to conduct municipal elections on a May schedule.

There is one modification to the language in § 24.1-1 (5) (c) which now states that the special election must be held on the "regular" November or May general election day. Proposed § 24.2-682 does not use the modifier "regular" for the November election day since there is a November general election in every locality every year either for Congress or the House of Delegates. Special elections to fill vacancies in constitutional offices and in county offices usually elected in November may be scheduled on any November general election day if other time constraints are met. The term "regular" is unnecessary in this context and is deleted to avoid any interpretation that "regular" means the November election for the particular office in which the vacancy has occurred. This deletion does not change present law.

The modifier "regular" is carried forward for the May general election situation. Special elections to fill vacancies for city and town councils may be scheduled for any usual or regular May election, but are not to be scheduled if a May election would not otherwise be held. The justification for this limitation under present law is to save cities and towns the cost of conducting an election solely to fill a vacancy. Appointments to fill the vacancy continue until a regularly scheduled May general election is available either for the special election or to elect a successor for a full term. The effect of this limit on municipalities depends on the municipal election schedule. Sixteen towns now have elections only once each four years, and vacancies in the governing body must be filled by appointment for the unexpired term. Most cities and towns have councilmanic elections each May in even-numbered years either for two-year terms or for staggered four-year terms. Under existing law or the proposed section, special elections to fill vacancies on municipal governing bodies may be scheduled when the municipality has biennial elections for four-year terms and the vacancy occurs before the mid-term May election. Otherwise vacancies on municipal governing bodies must be filled by appointment for the unexpired term. It should be noted that relevant charter provisions may provide that vacancies are to be filled only by appointment and that this section does not require any special election to be held. The provisions of this section are limitations on the scheduling of special elections.

~~§ 24.1-163~~ 24.2-683 . ~~Writ when for special election ordered to fill a vacancy .—Whenever a special election is ordered by the Governor, Speaker of the House, or President Pro Tempore of the Senate , or either house of the General Assembly orders a special election , it shall be his duty to he, or the person designated to act for the house, shall issue a writ of election ; designating the office to be filled at such the election and the time when such to hold the election is to be held, and to . He shall transmit the same writ to the secretary of the electoral board of the each county or city in which such the election is to be held. The Each secretary shall publish post a copy thereof of the writ at not less than ten public places or publish have notice of the election published once in a newspaper of general circulation in his jurisdiction at least ten days before such the election. If the special election is held in more than one county or city, the secretaries may act jointly to have the notice published once before the election in~~

the affected jurisdictions.

Whenever a special election is ordered to fill a vacancy otherwise than under the preceding paragraph, it shall be the duty of the officer ordering such the election to shall issue his writ of election at the time the vacancy occurs, or at least twenty days before such election if it be called pursuant to §-24.1-79; directed to the secretary of the electoral board of the county, city or town in which the election is to be held, designating therein the office to be filled at the election and the time and place of holding the same; upon receipt of which such officer to hold the election. He shall direct and transmit the writ to the secretary of the electoral board of each county or city in which the election is to be held. The secretary, or secretaries if the election will be held in more than one county or city, shall proceed to cause public notice to be given of such the election in the same manner as is required in the preceding paragraph. No special elections shall be ordered to be held within the sixty days prior to a general or primary election .

A copy of any order calling a special election to fill a vacancy shall be sent *immediately* to the State Board of Elections .

Drafting Note: The provision prohibiting a special election just prior to a general or primary election is transferred from § 24.1-163 and this proposed section to proposed § 24.2-682 with other provisions regulating the time for special elections. Language is added in the first sentence to recognize the possibility that a house of the General Assembly may act as a body to order a special election. See, also, § 24.2-216. Present § 24.1-163 is silent on notice for multi-jurisdictional elections and language is added to recognize that the writ of election should be sent to the secretary of the electoral board for each locality involved in the election. A provision is added to authorize the secretaries to cooperate in publishing notice of the election. The requirement to send a copy of the order to the State Board is modified by adding the word "immediately" to track the parallel provision in existing § 24.1-165 and proposed § 24.2-684. Otherwise there are no substantive changes, and other revisions are made to simplify language. The reference to § 24.1-79 is stricken. See drafting notes to proposed § 24.2-226 and stricken § 24.1-79.

~~§ 24.1-165, 24.2-684 . How referendum elections on questions, propositions, and referenda may be called and held, and the results ascertained and certified.— Notwithstanding any other provision of any law ; or of the charter of any city or town, to the contrary, the provisions of this section shall govern special elections on questions, propositions, and referenda but shall not be applicable to elections to fill vacancies in office all referenda .~~

No referendum shall be placed on the ballot, unless specifically authorized by (i) statute, or (ii) municipal charter provisions of the Cities of Chesapeake, Norfolk, Newport News, Virginia Beach and Fairfax existing January 1, 1975, or (iii) municipal charter provisions of the Cities of Hampton and Lynchburg, or ; (iv) in the case of a referendum to authorize the issuance of bonds of a county, city , or town, by statute or by the charter of such city or town .

Whenever any question or proposition is to be submitted to the electors voters of any county, city or , town, or other local subdivision, the election on such question or proposition referendum shall in every case be held pursuant to a court order as provided herein in this section . The court order calling a special election referendum shall state the question to appear on the ballot and shall be entered, and the election held within a reasonable period of time subsequent to the receipt of the request for such special election the referendum if such the request is found to be in proper order. No such special election shall be held unless it shall have been ordered at least sixty days prior to the date for which it is called. No such special election shall be held within the sixty days prior to a general or primary election. No such special election shall be held on the same day as a primary election. The court order shall set the date for the referendum in conformity with the requirements of § 24.2-682.

A copy of the court order calling a special election referendum shall be sent immediately to the State Board of Elections by the clerk of the court in which the order was issued.

The ballot shall be prepared by the appropriate electoral board and distributed to the appropriate election districts or precincts ; and at the time for such regular election, or on . On the day fixed for such special election the referendum , the regular election officers shall open a poll the polls and take the sense of the qualified voters of the county, city, town, ward, district, zone or other local subdivision, as the case may be, on the question or proposition so submitted to such electors . All such elections shall be held and conducted in the manner prescribed by law for other elections, provided; however, that the The ballots for use at any such election shall be printed to read state the question as follows ; either :

"Question (here state briefly the question or proposition submitted to the electors)

For

Against"

or

"Question (here "(Here state briefly the question or proposition submitted to the electors)

Yes

No"

The State Board of Elections shall designate which form is more appropriate for the question.

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

The ballots shall be printed, marked, and counted and returns made and canvassed as in other elections ; and the . The results shall be certified by the secretary of the appropriate electoral board to the State Board of Elections , to the court ordering the election , and to such other authority as may be proper to accomplish the purpose of such the election.

Drafting Note: No change in substance. Under proposed § 24.2-101 and the definition of special election, the term referendum is used to refer to all elections on questions put before voters. Existing § 24.1-165 prohibits any referendum not authorized by statute or one of the specified charters. There are more than fifty statutes providing for referendum elections. Referenda are usually held in one or more whole localities but may be conducted in special districts and so the language in the second paragraph is conformed to the language in the fourth paragraph to cover various types of local subdivisions. A reference to counties is also added in clause (iv) of the second paragraph since counties may have charters.

The stricken timing provisions in the third paragraph are transferred to proposed § 24.2-682 and a cross reference to § 24.2-682 is substituted for the stricken language. Present law sets out time constraints on referendum elections in § 24.1-1 (5)(c) and 24.1-165. The cross-reference directs the reader to one source for all applicable state law requirements on the time to conduct referendum elections. Other changes are made to eliminate unnecessary language and clarify current provisions.

~~§ 24.1-165.1~~ 24.2-685 . Special elections; request for abolition of certain local constitutional offices.—A. The provisions of this section shall be applicable to the holding of any referendum, elsewhere authorized by law, on the abolition of any constitutional office set forth in Article VII, Section 4 of the Constitution of Virginia conducted prior to a request for a special act of the General Assembly to abolish such office.

B. Notwithstanding any other provision of general law or any special act, no referendum subject to the provisions of this section shall be held unless:

1. Petitions are filed with the circuit court of the county or city requesting that a referendum be held to authorize a request for a special act on the abolition of the named office;

2. Such The petitions are signed by qualified voters of the county or city equal in number to twenty percent of the total vote cast in the county or city for presidential electors in the last preceding presidential election; and

3. Such The petitions are filed with the court within ninety days of the first signature on the petitions, and the petitions show the date each signature was affixed.

C. Upon filing of a valid petition, the court shall order the election and state the question to be placed on the ballot in its order. The court shall order the referendum to be held at the next general election for members of the governing body of the county or city held at least

sixty days after the date of the order.

D. After a referendum is conducted pursuant to this section with respect to the abolition of a particular office or ~~shall have been conducted on such abolition at any time prior to the enactment of this section~~, no other referendum with respect to the abolition of the same office shall be held in the same county or city pursuant to this section for a period of eight years.

E. No special act authorizing the abolition of any such office shall be considered by the General Assembly without court certification that a referendum has been conducted pursuant to this section and that a majority of the qualified voters voting thereon have approved the request for a special act.

Drafting Note: The term "constitutional office" is defined in § 24.1-101 to mean the offices listed in Article VII, Section 4, and so the defined term is used. The reference to referenda conducted prior to enactment is deleted. This section was originally adopted in 1985 and so the eight-year prohibition on repetitive referenda no longer reaches pre-enactment referenda.

~~§ 24.1-165.2: Special elections; changes in form of government in certain counties.—A. The provisions of this section shall apply to any county with a population in excess of 400,000 persons.~~

~~B. In any case in which the qualified voters of the county are authorized to petition for a referendum on changing the county's form of government and organization, the number of signatures of qualified voters required on the petition shall be equal to or greater than ten percent of the number of voters registered in the county on January 1 of the year in which the petition is filed.~~

~~C. Any referendum concerning any change in the county's form of government and organization shall be ordered to be held on the next November general election date at least sixty days after the date of the order.~~

Drafting Note: This provision applies only to Fairfax County and applies to referenda to change the County's form of government. It is transferred to Chapter 15 of Title 15.1 and placed with other provisions on changing the urban county executive form of government in a new § 15.1-760.1.

CHAPTER 7.

ABSENTEE VOTING.

Chapter Drafting Note: Proposed Chapter 7 is derived from existing Article 7 of Chapter 6 and primarily covers the qualifications of absentee voters and the procedures for processing applications and ballots.

Major revisions to the proposed chapter clarify the duties of the election officers in the absentee ballot process. Provisions are reorganized and simplified so that these duties are listed in chronological order for each election officer. Particular emphasis is given to clarifying the expanding role of the general registrar in the application process.

All references to oaths have been replaced with references to the new false statement penalty provided in proposed Chapter 10. Persons who make a false statement when applying for or voting an absentee ballot are subject to felony penalties comparable to the perjury penalties for false swearing.

~~§ 24.1-227~~ 24.2-700 . ~~When absent voter may~~ *Persons entitled to vote by absentee ballot* .—The following ~~persons~~ *registered voters* may vote by absentee ballot in accordance with the provisions of this chapter in any election in which they are qualified to vote:

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

(2) 2. Any ~~duly~~ registered person who is (i) on active service as a member of the armed forces of the United States, or ~~who~~ is (ii) a member of the merchant marine of the United States, or ~~who~~ is (iii) regularly employed in a business, profession or occupation outside the continental limits of the United States, or (iv) the ~~duly~~ registered spouse or dependent residing

with such any person listed in (i), (ii), or (iii) , and who will be absent on the day of the election from the county or city in which he is entitled to vote;

~~(3)~~ 3. Any ~~duly registered person, who is a student attending a school or institution of learning , or the his spouse of a student attending any school or institution of learning, and ,~~ who will be absent on the day of election from the county or city ~~in which he is entitled to vote;~~

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

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

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

Drafting Note: Article II, Section 4 of the Constitution gives the General Assembly complete discretion in deciding which qualified voters may be permitted to vote by absentee ballot. Under current law, the General Assembly has extended the right to vote absentee to certain categories of persons who would not otherwise be able to vote without serious inconvenience. Proposed § 24.2-700 retains these categories which are derived from existing § 24.1-227. Language is added to subdivision 1 to clarify that a person away on personal business may also vote absentee and to conform the provision to existing law in subdivision 3 j of § 24.1-228.1 (proposed subdivision C 10 of § 24.2-701).

~~§ 24.1 228.1 24.2-701 . Application for absentee ballots ballot .— It shall be the duty of the electoral board of each county or city to A. The State Board shall furnish the each general registrar with a sufficient number of applications for official absentee ballots on forms prescribed by the State Board of Elections; and it shall be the duty of such . The registrars to shall furnish application forms, in person or by mail, applications to any person requesting the same persons requesting them~~

All applications for absentee ballots shall be made to the appropriate registrar ~~(i) not less than three days prior to the election in which the applicant offers to vote if completed in person in the office of the registrar, or (ii) not less than five days prior to the election in which the applicant offers to vote if applying by mail or other means. A Except as provided in § 24.2-703,~~ a separate application shall be completed for each election in which the applicant offers to vote. No application shall be ~~made accepted~~ more than ten months prior to the election for which the ballot is requested. Any application received before the ballots are printed ~~for the election in which the applicant offers to vote shall be held and processed as soon as the printed ballots for the election are available.~~

For the purposes of this chapter, the general registrar's office shall be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturday immediately preceding all general or primary elections and on the Saturday immediately preceding any special election.

All applications for absentee ballots shall be signed in the presence of one subscribing witness by the applicant who shall ~~subscribe the same and vouch under the penalty of perjury state, subject to felony penalties for making false statements pursuant to § 24.2-1016 ,~~ that to the best of his knowledge and belief the facts contained in the application are true and correct and that he has not and will not vote in the election at any other place in Virginia or in any other state.

B. Applications for absentee ballots shall be as follows completed in the following manner :

1. An application completed in person shall be ~~completed~~ made not less than three days prior to the election in which the applicant offers to vote and completed only in the office of the general registrar or secretary ~~(such registrar's office to be open a minimum of eight hours between the hours of 8:00 a.m. and 5:00 p.m. on the first and second Saturdays immediately preceding all general or primary elections and on the Saturday immediately preceding any~~

special election) and shall be made on a form furnished by the registrar and signed by the . The applicant shall sign the application in the presence of either the a registrar or the secretary of the electoral board.

2. Any other application may be made by mail, electronic or telephonic transmission to a facsimile device if one is available to the office of the general registrar or the office of the State Board of Elections if a device is not available locally, or other means and . The application shall be on a form furnished by the registrar or, if made under ~~§-24.1-227 (2)~~ subdivision 2 of § 24.2-700, may be on a Federal Post Card Application prescribed pursuant to 42 U.S.C. § 1973 ff (b) (2) of Title 42 of the United States Code, either of which applications shall be signed by the applicant in the presence of one subscribing witness . The application shall be made to the appropriate registrar not less than five days prior to the election in which the applicant offers to vote .

~~3.~~ Any application made under ~~§-24.1-227 C.~~ Applications for absentee ballots shall contain the following appropriate information:

a 1 . The reason why the applicant will be absent or cannot vote at his polling place on the day of the election;

b 2 . A statement that he is duly registered in the county or city in which he offers to vote and his residence address in such county or city ; ~~provided, however, that any . Any person who makes application under §-24.1-227 (2) subdivision 2 of § 24.2-700 who is not a registered voter ; shall be allowed to register, and who is entitled to register by absentee application pursuant to § 24.1-48 by absentee application 24.2-419, may file the applications to register and for a ballot simultaneously : In such event the registrar shall supply or correct technical information contained in either application, such as precinct names and number, to the end that such persons have the fullest opportunity possible to exercise their privilege of voting ;~~

e 3 . The complete address to which the ballot is to be sent directly to the applicant, provided that the application is not made in person at a time when the printed ballots for the election are available. The address given shall be either the address of the applicant on file in the registration records or the address at which he will be located while absent from his county or city. No ballot shall be sent to, or in care of, any other person; and

d 4 . In the case of ~~an applicant a person~~ , or the spouse or dependent of ~~an applicant a person~~ , who is on active service as a member of the armed forces of the United States or a member of the ~~Merchant Marine merchant marine~~ of the United States, the branch of service to which he or the spouse belongs, and his or the spouse's rank, grade, or rate, and service identification number; or

e 5 . In the case of a person, or the spouse or dependent accompanying such person, who is regularly employed outside the continental limits of the United States, the name and address of his employer; or

f 6 . In the case of a student , or the spouse of a student , who is attending a school or institution of learning, the name and address of ~~such~~ the school or institution of learning; or

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

h 8 . In the case of a person who is confined awaiting trial or ~~due to conviction for having been convicted~~ of a misdemeanor, the name and address of the institution of confinement; or

i 9 . In the case of a person who will be absent on election day for business reasons, the name of his employer or business; or

j 10 . In the case of a person who will be absent on election day for personal business or vacation reasons, the name of the county or city in Virginia or the state or country to which he is traveling.

Drafting Note: In subsection A, the State Board, rather than local electoral boards, is required to provide the application forms. This change conforms to present practice. The provision that the application is subject to perjury penalties is replaced by a comparable provision on felony penalties for false statements. In subsection B, in-person applications are completed in the general registrar's office since the registrar confirms that the applicant is a registered voter, and the reference to the office of the electoral board is deleted. In subsection

C, the language concerning the general registrar's authority to correct technical information on applications such as precinct names or numbers is unnecessary since the voter is not responsible for providing this information on the application forms. Other changes are stylistic only.

~~§ 24.1-228.1:2~~ 24.2-702 . ~~Procedures for voting~~ *Application for early absentee ballot by qualified absentee voters ; procedures*— A. Notwithstanding any other provisions of this article, a qualified absentee voter title, a person , who is eligible for an absentee ballot under ~~§ 24.1-227 (2)~~ subdivision 2 of § 24.2-700 and qualified under subsection C of this section, may apply, not later than ninety days before that election, for an absentee ballot only for elections for Governor, Lieutenant Governor, or Attorney General.

B. The application for such absentee ballot may be made on the Federal Post Card Application form .

C. In order to qualify for such the absentee ballot, the voter must shall state that he is unable to vote in any other manner due to overseas military service or due to living in an isolated or extremely remote overseas area. This statement may be made on the Federal Post Card Application.

D. ~~Upon~~ On receipt of the application and pursuant to ~~§ 24.1-220~~ , the electoral board shall issue, at least ninety days before an election, the printed ballot only for elections for Governor, Lieutenant Governor, or Attorney General. No additional ballot or ballots shall be provided to such applicants for that election date.

Drafting Note: Existing § 24.1-228.1:2, enacted by the 1992 General Assembly, is carried forward without substantive change as proposed § 24.2-702. The section provides an opportunity for persons located in extremely remote overseas areas to receive an early absentee ballot for elections for Governor, Lieutenant Governor, or Attorney General. The last sentence is clarified that the person receiving this ballot is not entitled to cast a later ballot at the same election for the statewide offices, other offices, or questions.

~~§ 24.1-228.1:1~~ 24.2-703 . ~~Applications~~ *Application for absentee ballots for multiple elections.*— The provisions of this section shall apply to any voter who is (i) in the armed forces or merchant marine or overseas or his spouse or dependent and (ii) permitted to vote absentee under subdivision (2) of ~~§ 24.1-227~~. Any such voter person who is eligible for an absentee ballot under subdivision 2 of § 24.2-700 may file one absentee ballot a single application to receive ballots for all elections in which he is eligible to vote absentee during the calendar year. The application shall be on a Federal Post Card Application. The application may be filed at any time during the calendar year and shall be valid for any election conducted five or more days after receipt of the application by the general registrar.

The application shall be on a Federal Post Card Application prescribed pursuant to 42 U.S.C. § 1973 ff (b) (2).

If the applicant indicates that he is applying for more than one election in the calendar year, the The general registrar shall retain his the application and process his the applicant's request for an absentee ballot for each election in which the applicant has offered to vote in accordance with procedures established by the State Board. The applicant shall specify by party designation the primary ballots he is requesting.

If an official reply to the application or an absentee ballot sent to the applicant is returned as undeliverable, no additional ballots for subsequent elections shall be sent during the calendar year.

Drafting Note: The language has been clarified and simplified. The added language in the final paragraph covers situations when the registrar responds to an application without sending a ballot. For example, if the applicant requests a primary and general election ballot and the registrar responds to advise that there is no primary and if that response is returned as undeliverable, the registrar is not required to send a general election ballot.

~~§ 24.1-228.2~~ 24.2-704 . ~~Absentee ballot applications~~ *Applications and ballots for persons requiring assistance in voting.*—The application for an absentee ballot shall provide space for the applicant to indicate that he will require assistance to vote his absentee ballot by reason of blindness, physical disability , or inability to read or write. ~~Upon~~ On receipt of an application from an applicant marked to indicate he will require assistance, there the electoral board shall

be delivered ~~deliver~~ with the items required by § 24.1-220 24.2-706 an instruction to mark out in the "Oath of the Voter" the language "without assistance or knowledge on the part of anyone as to the manner in which the same was prepared." The requirement of § 24.1-232 that an absentee ballot shall be voted "without assistance and without making known the manner of marking the same" shall not apply to a voter requiring assistance for the reasons stated herein.

There shall also be delivered with the items required by § 24.1-220, the voter assistance form furnished by the State Board of Elections pursuant to § 24.1-132 so that the § 24.2-649. The voter and any person assisting him may be informed of the requirements of that section and comply with them by shall complete the form by signing the request for assistance and statement required therein of the assistant . The provisions of § 24.1-132 24.2-649 shall apply to absentee voting and assistance for absentee voters.

Drafting Note: Existing § 24.1-228.2 implements federal mandates provided in 42 U.S.C. § 1973aa-6 which require that assistance be made available to voters who, by reason of blindness, physical disability, or inability to read or write require assistance in voting. Deleted from proposed § 24.2-704 is the requirement to send an instruction to the voter explaining how to mark out in the "oath of the voter" the declaration that no assistance was provided. In proposed § 24.2-706, the absentee voter's statement has been revised to clarify this point. The final sentence in the first paragraph is stricken as redundant.

§ ~~24.1-220.1~~ 24.2-705 . Emergency absentee ballot applications and absentee ballots for persons hospitalized.—Any person registered and otherwise qualified to vote who becomes hospitalized on or after the fifth day preceding an election may request at any time prior to noon on the day preceding the election that an emergency absentee ballot application be delivered to him in the hospital. As used in For purposes of this section, the term hospital "hospital" means a hospital as defined in § 32.1-123 and any comparable hospital in the District of Columbia or any state contiguous to Virginia.

~~Upon~~ On receipt of such the request, the electoral board shall provide an emergency absentee ballot application to the hospitalized voter's designated representative who shall deliver the application for delivery to such the voter by his representative . The representative shall be age eighteen or older and shall not be an elected official, a candidate for elected office, or the deputy, spouse, parent , or child of an elected official or candidate.

The application shall be on a form prescribed by the State Board and shall require the applicant under oath (i) to state that he was hospitalized on or after the fifth day preceding the election and is unable to be present at the polls on election day, (ii) to designate his a representative whom he authorizes to receive, deliver and return his the ballot, and (iii) to provide other information required by law for an absentee ballot application. The form also shall have printed on it a certificate to be completed by a A hospital administrative official or a licensed physician attending the applicant ; attesting to the shall certify on the form to the hospitalization of the applicant and the applicant's inability thereby to be present at the polls on election day. The applicant shall sign and subscribe the application and vouch under penalty of perjury state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that to the best of his knowledge and belief the facts contained in the application are true and correct. He shall sign the application in the presence of the person who delivered it, and that person shall be the subscribing witness. The His signature shall be witnessed by the designated representative who shall sign and return the completed application shall be delivered to the office of the general registrar no later than 5:00 p.m. on the day preceding the election.—

~~Upon the~~ On receipt of the completed ; signed and witnessed application and a determination of the qualification of the applicant to vote, the general registrar or secretary of the electoral board shall provide, in accordance with the applicable provisions of §§ 24.1-228.2 and 24.1-220 this chapter , an absentee ballot to the designated representative for delivery to the hospitalized voter.

The hospitalized voter shall vote the absentee ballot as provided by law and mark it in the presence of the individual delivering it to him. That individual designated representative. The representative shall execute an affidavit under penalty of perjury complete a statement, subject to felony penalties for making false statements pursuant to § 24.2-1016, that (i) that he is the representative of the hospitalized voter; (ii) that he personally delivered the ballot to the voter who applied for it; (iii) that in his presence , the voter marked the ballot, the ballot was placed in the envelope provided, the envelope was sealed, and the oath statement on its reverse side was subscribed signed by the hospitalized voter; and (iv) that the ballot was returned, under seal, to the electoral board at the registrar's office.

The ballot shall be counted only if the ballot is received by the electoral board (i) prior to twelve noon on the day of the election in any city, town, or county, city, or town which does not have a central absentee voter election district or (ii) prior to the closing of the polls in any city or county, city, or town which has a central absentee voter election district precinct.

Drafting Note: Provisions subjecting the applicant and his designated representative to perjury penalties for false swearing are replaced with comparable provisions subjecting such persons to felony penalties for making false statements.

§ ~~24.1-229~~ 24.2-706 . Duty of general registrar and electoral board upon receipt of application; ~~oath statement~~ of voter.— ~~The~~ On receipt of an application for an absentee ballot, the general registrar; upon receipt of the application for a ballot, if the applicant is duly registered shall enroll the name and address of the each registered applicant on the list to be made and kept by him for the purpose, and such list shall be a public record from the receipt of the first application and shall be an absentee voter applicant list which shall be maintained in the office of the general registrar with a file of the applications of the listed applicants. The list and the applications shall be available for public inspection and copying by any registered voter during regular office hours. The general registrar shall maintain in his office with such list a file of the applications of the listed applicants, which file shall be available for public inspection and copying during office hours.

The applications file shall be sealed after election day, delivered to the clerk of the circuit court of the county or city before noon on the day following the election, and retained by him with the counted ballots.

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

The general registrar shall note on the each application that received whether the applicant is or is not a registered voter and forthwith notify the secretary of the electoral board of its receipt. If it then appears to the electoral board that the application has been properly completed, signed, and witnessed and the applicant is a resident and registered voter of the precinct in which he offers to vote, the electoral board shall immediately send to the applicant by mail, obtaining a certificate of mailing, or deliver to him in person in the office of the secretary or registrar, the following items and nothing else; provided, however, that if the applicant makes his application to vote in person under subdivision 1 of § 24.1-228.1 at a time when the printed ballots for the election are available, the registrar or the secretary of the electoral board, upon the determination of the qualification of the applicant to vote, shall deliver the following items only to the applicant himself in proper person and unless such applicant offers to vote only for electors of President and Vice-President of the United States no item shall be removed by the applicant from the office of the registrar or the secretary of the electoral board.

(a) 1. An envelope containing the folded ballot, sealed and marked "Ballot within. Do not open except in presence of a witness."

(b) 2. An envelope for resealing the marked ballot, on which envelope is printed the following:

“ Oath Statement of Voter. ”

“I do solemnly swear (or affirm) under penalty of perjury hereby state, subject to felony penalties for making false statements pursuant to § 24.2-1016, that my full name is ; ; that I am a citizen of the United States, a qualified voter of the Commonwealth of Virginia, and duly registered in the county or city of (or my application for absentee registration accompanies this ballot envelope) ; ; that I am now or have been at some time since the last November general election an actual resident of (address of residence where registered to vote) ; ; that I am at least eighteen years of age (or will be on the . . . day of) ; ; that the enclosed ballot was received by me upon my application to the registrar of such county or city ; ; that the envelope marked ‘ballot within’ was opened by me in the presence of : : : : : ; witness, the witness whose signature appears below; that I marked the ballot while in his presence, without assistance or knowledge on the part of anyone as to manner in which same was prepared, and I marked it (or I am returning the ballot with the form required to report how I was assisted); that I then and there sealed as provided by law, the ballot in this envelope; and that I have not voted in this election at any other time or place ; and that I will not vote in this election elsewhere.

Signature of Voter
Date

Signature of witness

(e) 3. A properly addressed envelope for the return of the ballot to the electoral board by mail or by the applicant in person.

(d) 4. Printed instructions as to the manner of for completing the ballot and oath statement on the envelope for the return of the ballot and how the same shall be returned and returning the ballot .

The covering and return envelopes and instructions shall be in the form prescribed by the State Board of Elections .

If the applicant makes his application to vote in person under § 24.2-701 at a time when the printed ballots for the election are available, the general registrar or the secretary of the electoral board, on the determination of the qualifications of the applicant to vote, shall provide to the applicant the items set forth in subdivisions 1 through 4 above and no item shall be removed by the applicant from the office of the general registrar or the secretary of the electoral board.

If the applicant states as the reason for his absence on election day any of the reasons set forth in subdivision (2) of § ~~24.1-227~~ 24.2-700 , the electoral board shall mail or deliver in person to the applicant in the office of the secretary or general registrar, the items as set forth in ~~(a)~~ subdivisions 1 through ~~(d)~~ 4 above and , if necessary, an application for registration pursuant to § ~~24.1-48~~ if necessary 24.2-419 . A certificate of mailing shall not be required.

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

When the oath statement prescribed in ~~(b)~~ subdivision 2 above has been properly subscribed completed and signed by a duly the registered voter and witnessed , his ballot shall not be subject to challenge pursuant to § ~~24.1-133~~ 24.2-651 .

Drafting Note: The oath of the voter is revised and changed to a statement signed by the voter and subject to felony penalties pursuant to § 24.2-1016. Voters who require assistance in voting may sign the statement without striking language from it. The requirement to seal the absentee ballot applications and deliver them to the clerk is transferred to proposed § 24.2-710 since it is a final step in the process.

The provision that an absentee voter who applies in person after ballots are available must vote at that time is made applicable to all elections including presidential elections since there is no rationale for allowing only presidential ballots to be taken from the office and the policy to avoid circulating official ballots applies alike to all elections.

~~§ 24.1-231. Registrar to make lists of applicants; delivery of copy to electoral board.—Before each election the general registrar shall make out in triplicate on a form prescribed by the State Board of Elections a list of the names and addresses by precinct of all persons who have applied to him for such ballots and shall by 12:00 o'clock noon on the day before any election deliver two copies to the electoral board, and post a copy in the office of the general registrar. Such electoral board and general registrar shall maintain such lists in his office for a period of twelve months as public records open to public inspection during office hours.~~

On the morning of the day of election on which the ballots are to be offered, the electoral board shall post true copies of the lists required herein and by §§ ~~24.1-233.1~~ and 24.1-234 in conspicuous places at the polling place of the respective proper precincts.

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

Drafting Note: Existing § 24.1-231 is deleted as a separate section. Language shown as stricken in the first paragraph is revised and incorporated in proposed § 24.2-710 with other duties of the general registrar in the absentee ballot process. The second paragraph is covered in proposed §§ 24.2-710 and 24.2-711 with the requirement for posting the list in each precinct as a duty of the chief officer of election. The final paragraph is deleted as obsolete because all voter turn-out information is furnished to the State Board under present procedures.

~~§ 24.1-232~~ 24.2-707. How ballots marked and returned by mail ; ballots cast in person; how ballots cast on voting machines equipment .— Upon receipt of the a mailed absentee ballot forwarded by the electoral board , the voter shall not , in the presence of a witness, (i) open the sealed envelope ; marked "ballot within" ; except in the presence of a witness; and shall then and there and (ii) mark and refold the ballot , as provided in ~~§-24.1-220~~, and refold the ballot §§ 24.2-644 and 24.2-646 without assistance and without making known the manner of marking same. He how he marked the ballot, except as provided by § 24.2-704.

After the voter has marked his absentee ballot, he shall then and there place (i) enclose the ballot in the envelope provided for the that purpose, (ii) seal the envelope, and (iii) fill in and sign the oath statement printed on the back of the envelope in the presence of a witness, who shall witness the same in writing. This envelope shall be enclosed sign the same envelope, (iv) enclose the ballot envelope and any required assistance form within the envelope directed to the electoral board which shall then and there be sealed and mailed , and (v) seal that envelope and mail it to the office of the electoral board ; or delivered deliver it personally by the voter to the electoral board or the general registrar.

In the event that the An applicant who makes his application to vote in person under paragraph 1 of ~~§-24.1-228.1~~ at a time when the printed ballots for the election are available ; he shall follow the same procedure as set forth above except that it he shall be done complete the procedure in person in the office of the secretary or general registrar ; upon receipt of the items set forth in ~~§-24.1-220~~ or secretary of the electoral board before either the a registrar or the secretary of the electoral board, and failure to do so will render the applicant's ballot void .

Failure to follow the procedures set forth above shall render the applicant's ballot void.

The electoral board of any county or city using a central absentee voting district precinct may provide for the casting of absentee ballots on voting machines equipment by applicants who are voting in person. The State Board of Elections shall prescribe procedures for such the use of voting machines equipment .

Drafting Note: No change in substance. The next-to-last paragraph is taken from the end of the second paragraph and stated separately to clarify that the failure to follow procedures for casting a ballot by mail or in person will render the ballot void.

~~§ 24.1-232~~ 24.2-708 . Return of unused ballots; voting by applicant who did not receive ballot.—If for any reason a person, who has applied for and received a ballot, should decide decides not to vote the same, it absentee, he shall be his duty to return such the ballot unopened, in the sealed envelope ; in which it was received sent to him , to the electoral board from which he received the same , on or before the day of the election in which such the ballot was intended to be used.

The electoral board shall cause to be noted note on the absentee voter applicant list required by ~~§-24.1-234~~ to be kept by it , opposite the name of the person returning such the ballot, the fact that the same ballot was returned unused ; with and the date of the return thereof, and . The electoral board shall carefully preserve all such ballots so returned unused and deliver them, together with the other returned ballots, to the officers of election on election day. If a A voter, after having who has returned his unused ballot as provided herein, shall present himself at his precinct be entitled to cast his vote personally in person on election day ; he shall be entitled to east his ballot at his precinct .

If for any reason a person who has applied for and has been sent an absentee ballot does not receive such the ballot, he shall be entitled, upon to cast another ballot after presenting to the electoral board, registrar or officer of election a sworn statement signed by him that he did not receive such the ballot, to east another paper ballot subject to felony penalties for making false statements as pursuant to § 24.2-1016 .

Drafting Note: Provisions requiring a sworn statement of the applicant are replaced by comparable provisions requiring a signed statement which is subject to the felony penalties for making false statements pursuant to § 24.2-1016.

~~§ 24.1-230~~ 24.2-709 . Ballot to be returned in manner prescribed by law.—Any ballot returned to a member of the electoral board at the office of the secretary or the electoral board or general registrar in any manner except as prescribed by law, shall be void. The board member or registrar receiving the ballot shall mark on each envelope the date, time , and manner of delivery. In the event that the ballot is returned to the general registrar, he shall mark the date,

time and manner of delivery to him. For all ballots returned by the general registrar to the electoral board, the board shall give to the general registrar a receipt showing the time and date of such the return.

Drafting Note: No change in substance.

§ 24.1-234. Deposit of returned ballot by electoral board; delivery of sealed containers to officers of election; opening box containing ballots; disposition of empty and rejected envelopes. After receipt of the ballot, on the list in the registrar's office provided in § 24.1-231, the electoral board shall mark the date of receipt in the appropriate column opposite the name and address of the voter. The electoral board shall deposit the unopened ballot envelope and return envelope in a separate container or containers provided for the purpose, in which they shall remain until the day of election.

On the day of election the electoral board shall deliver to the officers of election at the proper precincts or the central absentee voter election district the containers, taking their receipt therefor. The containers shall be sealed prior to such delivery, and shall have therein the sealed ballots with their accompanying envelopes and the lists of prospective voters for all precincts as provided in § 24.1-231. Ballots received from the voter after election day shall be delivered to the clerk of the circuit court.

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

When all ballots have been accounted for and either voted or rejected, the empty envelopes that previously contained the ballots shall be placed in an envelope with the return envelopes, and they, together with the rejected envelopes, if any, on which, or attached to which, shall be plainly written the cause of rejection, signed by a majority of the officers of election, shall be sealed up with the ballots cast at such election to be delivered as provided by law.

§ 24.2-710. Further duties of electoral board and general registrar; absentee voter applicant lists.—On receipt of an absentee ballot, the electoral board or general registrar shall mark the date of receipt in the appropriate column opposite the name and address of the voter on the absentee voter applicant list maintained in the general registrar's office. A board member or registrar shall deposit the return envelope and the unopened ballot envelope in an appropriate container provided for the purpose, in which they shall remain until the day of the election.

On the day before the election, the general registrar shall (i) make out in triplicate on a form prescribed by the State Board the absentee voter applicant list containing the names of all persons who applied for an absentee ballot through the third day before the election and (ii) by noon on the day before the election, deliver two copies of the list to the electoral board and post a copy in the general registrar's office. The general registrar shall maintain one copy of the list in his office for two years as a public record open for inspection during regular office hours.

On the day before the election, the electoral board shall deliver one copy of the list provided to it by the general registrar to the chief officer of election for each precinct. The list shall be attested by the secretary of the electoral board who shall be responsible for the delivery of the attested lists to the chief officer of election for each precinct.

Absentee ballots shall be accepted only from voters whose names appear on the attested list.

Before the polls close on the day of the election, the electoral board shall deliver the absentee ballot containers to, and obtain a receipt from, the officers of election at each appropriate precinct. The containers shall be sealed prior to delivery to the officers and shall contain the sealed absentee ballots, the accompanying return envelopes, and a copy of the absentee voter applicant list for each precinct.

If the county or city uses a central absentee voter precinct pursuant to § 24.2-712, the lists and containers shall be delivered, as provided in this section, to the officers of election for the absentee precinct.

Before noon on the day following the election, the general registrar shall deliver all

applications for absentee ballots for the election, under seal, to the clerk of the circuit court for the county or city. The clerk shall retain the sealed applications with the counted ballots.

The secretary of the electoral board shall deliver all absentee ballots received after the election to the clerk of the circuit court.

§ 24.2-711. Duties of officers of election.—Before the polls open, the officers of election at each precinct shall mark, for each person on the absentee voter applicant list, the letters “AB” (meaning absentee ballot) in the voting record column on the precinct registered voter list.

Before the polls open, the chief officer of election shall post the copy of the absentee voter applicant list in the polling place.

If a voter, whose name appears on the absentee voter applicant list, has not returned an unused ballot and offers to vote in his precinct, the officers of election in the precinct shall determine the matter pursuant to § 24.2-708 or, if the locality has a central absentee voter precinct, shall refuse to give him a ballot and shall refer him to the officers of the absentee precinct for an appeal pursuant to § 24.2-712.

After the close of the polls, the container of absentee ballots shall be opened by the officers of election. As each ballot envelope is removed from the container, the name of the voter shall be called and checked as if the voter were voting in person. If the voter is found entitled to vote, his name shall be entered in the pollbook. The ballot envelope shall then be opened, and the ballot deposited in the ballot box without being unfolded or examined. If the voter is found not entitled to vote, the unopened envelope shall be rejected. A majority of the officers shall write and sign a statement of the cause for rejection on the envelope or on an attachment to the envelope.

When all ballots have been accounted for and either voted or rejected, the officers shall place the empty ballot envelopes, the return envelopes, and any rejected ballot envelopes, in one envelope provided for the purpose and seal and deliver it with the ballots cast at the election as provided in this title.

Drafting Note: Existing § 24.1-234 is reorganized in two new sections to set out the duties of the electoral board and general registrar in one provision and to state the duties of the officers of election in a separate section. No change in substance. Provisions from existing §§ 24.1-229, 24.1-231, and 24.1-233.1 are incorporated where appropriate.

~~§ 24.1-233.1~~ 24.2-712 . Counting ballots; absentee voter district Central absentee voter precincts; counting ballots .— Notwithstanding any other provision of law, for the purpose of counting and recording absentee ballots in elections, the governing body of each city or county or town may establish one or more central absentee voter election districts precincts in the courthouse or other public buildings ; and the governing body of any town may establish such election districts for town elections, which shall receive, count and record all such ballots cast within that city, county or town for the purpose of receiving, counting, and recording absentee ballots cast in the county or city . The decision to establish such district or districts any absentee voter precinct shall be made by the governing body by ordinance : Such ; the ordinance shall state for which elections such district or districts the precinct shall be used. The decision to abolish any such district or districts shall also absentee voter precinct shall be made by the governing body by ordinance. Immediate notification of either such decision shall be sent to the State Board of Elections and the electoral board.

A registration list as provided for in § 24.1-231 shall be kept containing the names by precinct of all applicants for an absentee ballot as received and certified by the registrar's office through the third day next preceding the election. The complete list shall be attested to by the secretary of the electoral board and the ballots of no other voter shall be accepted.

A copy of this list shall be delivered to the chief election officer of the appropriate precinct at the time the registration book is delivered or on the day before the election. The secretary of the electoral board shall be responsible for the delivery to and receipt of such certified lists by each chief election officer. The officers of election at each precinct shall mark the letters “AB” (meaning absentee ballot) in blue ink in the space provided for voting record on the registration book for all such voters, if any. All of the above shall be completed before the start of the regular voting at the precinct.

Any voter whose name appears on the certified list from the electoral board who offers to vote in person at his precinct shall not be provided a ballot and shall be informed that he has

voted by absentee ballot according to the records before the ~~officials~~. An appeal, if any, shall be made to the officers of election at the central absentee voter election district, who shall produce records to indicate the receipt of the application and the certificate of mailing for the ballot. If the officers of election cannot produce such proof, the voter must be allowed to cast his vote in person at that time and place and have his vote counted with the other absentee voters. If any voter brings an unmarked ballot to the central absentee voter election district or to the electoral board on or before the day of election, he must be allowed to vote it, and it shall be delivered to the central absentee voter election district prior to the closing of the polls.

Each central absentee voter election district precinct shall have not less than at least three election officials ~~officers of election~~ as provided for the other precincts. The number of ~~officials~~ ~~officers~~ shall be determined by the electoral board.

If any voter brings an unmarked ballot to the central absentee voter precinct on the day of the election, he shall be allowed to vote it. If any voter brings an unmarked ballot to the electoral board on or before the day of the election, he shall be allowed to vote it, and his ballot shall be delivered to the absentee voter precinct before the closing of the polls.

The officers at the absentee voter precinct shall determine any appeal by any other voter whose name appears on the absentee voter applicant list and who offers to vote in person. If the officers at the absentee voter precinct produce records showing the receipt of his application and the certificate of mailing for the ballot, they shall deny his appeal. If the officers cannot produce such records, the voter shall be allowed to vote in person at the absentee voter precinct and have his vote counted with other absentee votes. If the voter's appeal is denied, the provisions of § 24.2-708 shall be applicable, and the officers shall advise the voter that he may vote on presentation of a statement signed by him that he has not received an absentee ballot and subject to felony penalties for making false statements pursuant to § 24.2-1016.

Absentee ballots may be processed as required by § ~~24.1-234~~ 24.2-711 by the officers of election at the central absentee voter election district precinct prior to the closing of the polls but the ballot box shall not be opened and the counting of ballots shall not begin prior to that time. In the case of punch card ballots to be inserted in the electronic counting equipment, the ballot box may be opened and the absentee ballots may be inserted in the counting equipment prior to ~~that time~~ the closing of the polls in accordance with procedures prescribed by the State Board, including procedures to preserve ballot secrecy, but no ballot count totals shall be initiated prior to that time.

As soon as the polls are closed in the city, county, or town county or city the officers of election at the central absentee voter election district precinct shall proceed to ascertain and record the vote given by absentee ballot and report the same results in the manner provided for the counting and reporting of ballots generally in §§ ~~24.1-136~~ through 24.1-143, both inclusive, ~~mutatis mutandis~~ Article 4 (§ 24.2-643 et seq.) of Chapter 6 of this title.

Drafting Note: The two paragraphs on the absentee voter applicant list are transferred to proposed § 24.2-710 because they relate to the duties of the electoral board and general registrar and not solely to the central absentee voter precinct. The fourth paragraph of existing § 24.1-233.1 is restated as the third and fourth paragraphs in proposed § 24.2-712 to set out the provisions in better chronological order. A reference to § 24.2-708 procedures is added for clarification.

The term central absentee voter "precinct" rather than "election district" is used to conform to the definitions used in Title 24.2. The authorization for central absentee voter precincts for towns is deleted since no town has utilized this provision and these precincts are generally useful only for larger jurisdictions.

CHAPTER 8.

RECOUNTS AND CONTESTED ELECTIONS.

Chapter Drafting Note: The content of present Chapter 8 which covers post-election challenges is divided into two separate articles. The provisions on recounts are transferred to the beginning of the chapter and set out in proposed Article 1 and contest provisions are set out in proposed Article 2.

The recodified recount provisions take into account changes in voting equipment and clarify that there will be a recount of punchcard ballots. While it is necessary to rely on the printed returns from voting machines and direct electronic voting devices which do not use separately

marked ballots, it is appropriate to recount punchcard ballots even though they are counted electronically. The present provisions are ambiguous on this point.

Contest provisions are carried forward with stylistic changes and one clarification. The statutory timetable for filing petitions and conducting a contest in the General Assembly does not work for two unusual cases — a contest following a recount and a contest involving a special election held while the General Assembly is in session. The proposed revision gives the Committee on Privileges and Elections authority to set the procedural timetable in these cases.

Article 1.

Recounts.

§ ~~24.1-249~~ 24.2-800 . Recounts in all elections.—A. ~~Applicability of section.~~ - The provisions of this ~~section shall~~ article apply to all elections held in ~~this the~~ Commonwealth.

B. ~~Recount in elections for office.~~ - When in any election for any office, there is between any candidate ~~apparently~~ nominated or elected and any ~~other~~ candidate *apparently defeated* a difference of not more than one ~~per centum~~ percent of the total vote cast for the two such candidates as determined by the State Board of Elections or the electoral board, ~~such other the~~ *defeated* candidate may appeal from the determination of the State Board of Elections or the electoral board for a recount of ~~such the~~ vote as set forth in this section and in § 24.1-250 article . In the case of an election of electors for the President and Vice-President of the United States, the presidential ~~and vice-presidential~~ candidates and not the electors shall be ~~deemed the candidates~~ *candidate shall represent the vice-presidential candidate and state of electors and be the party to the recount for purposes of this section article .*

C. ~~Recounts in elections to submit propositions.~~ - When in any election to submit any ~~proposition to the voters,~~ there is between the vote for the ~~proposition a question~~ and the vote against the ~~proposition a question~~ a difference of not more than fifty votes or one ~~per centum~~ percent of the total vote cast for and against the ~~proposition question~~ as determined by the State Board of Elections or by the electoral board, whichever is greater, ~~then by petition signed by at least fifty or more voters qualified to vote on the proposition, such voters question, by signing and filing their petition,~~ may appeal from the determination of the State Board of Elections or of the electoral board for a recount of ~~such the~~ vote as set forth in this section and in § 24.1-250 article .

§ 24.2-801. ~~Petition for recount; recount court.~~— D. ~~Petition.~~ — The petition for a recount shall be ~~made filed~~ within ten days from the day the State Board of Elections or the electoral board ~~ascertains~~ *certifies* the result of the election , and ~~has reduced the result to writing, and signed the same~~ under § 24.1-154 24.2-679 or § 24.1-146 24.2-671 , but not thereafter. ~~Such~~ The petition shall be filed in the Circuit Court of the City of Richmond in the case of any statewide office and in the circuit court of the county or city in which the candidate being challenged resides in the case of any other election ~~office~~ . ~~Such~~ The petition shall be filed in the Circuit Court of the City of Richmond in ~~the case of any statewide election to submit any proposition referendum and in the circuit court of any county or city comprising a part of such the election district in the case of any other election to submit any proposition referendum .~~

The petition shall set forth the results ~~so found~~ *certified* by the Board or *electoral* board and shall request the court to have the ballots in ~~such the~~ election recounted or, in the case of *mechanical or direct electronic voting machines devices* , the vote redetermined.

In ~~the case of an~~ election for office as set forth above , a copy of the petition shall be served on the candidate ~~apparently~~ nominated or elected ~~in the same way a notice is served as provided under § 8.01-296 and within ten days after the Board or electoral board has determined certified the results of such election.~~ In ~~the case of an~~ election to submit a ~~proposition a referendum~~ , a copy of the petition shall be so served on the governing body or chief executive officer of the jurisdiction in which the election was held. ~~Upon filing of any such petition the~~

The chief judge of the circuit court in which ~~the same~~ a petition is filed shall promptly notify the Chief Justice of the Supreme Court of Virginia , who shall ~~thereupon~~ designate two other judges to sit with the chief judge , and ~~such the~~ court shall be constituted and sit in all respects as a court appointed and sitting under §§ 24.1-238 24.2-805 and 24.1-239 24.2-806 .

Drafting Note: Existing § 24.1-249 is divided into two sections. Proposed § 24.2-800 defines when a recount may be held and § 24.2-801 spells out the requirements for the petition to initiate a recount and convene a recount court.

Two clarifying changes are made. First, in subsection B of § 24.2-800, the presidential candidate is specified to be the party to the recount and the representative for the vice-presidential candidate and slate of electors. This change clarifies that the slate is one party for purposes of structuring teams of recount officials and conducting the recount. See, also, § 24.2-807.

Second, the present law is unclear on how a recount should handle new types of ballots, such as punchcard ballots, which are counted on that ballots, including punchcard ballots, are to be recounted, and the vote totals will be redetermined only for "mechanical or direct electronic voting devices," a term that describes the type of equipment where the vote is cast on the equipment without any separate ballot. The process for recounting punchcard ballots is spelled out in § 24.2-802.

Other changes are made only to simplify language and use defined terms such as "referendum."

~~§ 24.1-250~~ 24.2-802 . Procedure for recount under ~~§-24.1-240~~ .—A. ~~Hearings~~ . - After the petition is filed, the chief judge of the circuit in which the petition is filed, ~~within~~ Within seven days of the filing of the petition, the chief judge of the circuit court shall call a preliminary hearing ; ~~(i)~~ at which (i) motions may be disposed of ; and (ii) ~~at which~~ the rules of procedure may be fixed, both subject to review by the full court ; and the chief judge, as . As part of the preliminary hearing, the chief judge may permit the petitioner and his counsel, together with each other party and his counsel and at least two members of the electoral board and the custodians, to examine any *mechanical or direct electronic* voting ~~machine~~ device of the type that prints returns when the print-out sheets are not clearly legible. The chief judge, subject to review by the full court, may set the place or places for the recount and may order the delivery of election materials to a central location and the transportation of voting ~~machines~~ devices to a central location in each county or city under appropriate safeguards.

After the full court is appointed under § ~~24.1-240~~ 24.2-801 , it shall call a hearing at which all motions shall be disposed of and ~~at which such~~ the rules of procedure shall be fixed finally. The court shall call for the advice and cooperation of the State Board of Elections, or any local electoral board of elections , as appropriate, and such boards shall have the duty and authority to assist the court.

B. ~~Recount officials~~ . - The court shall permit each candidate, or petitioner and governing body or chief executive officer or his designated representative under ~~§-24.1-240~~ , to select an equal number of the officers of election to be recount officials and to count ~~physically~~ the ballots, or in the case of *mechanical or direct electronic* voting ~~machines~~ devices to redetermine the vote ; ~~provided that the~~ . The number selected as shall be fixed by the court ~~shall~~ and be sufficient to conduct the recount within a reasonable period. If ~~deemed necessary~~ the The court may permit each ~~such~~ party to the recount to submit a list of alternate officials in the number the court directs. There shall be at least one team of recount officials to ~~count~~ recount paper ballots and to redetermine the vote cast on ~~machines~~ *mechanical or direct electronic* devices of the type that prints returns for the election district at large in which the recount is being held ~~and~~ . There shall be at least one team from each locality in the election district to redetermine the vote on other types of *mechanical* voting ~~machines~~ devices . There shall be at least one team from each locality using *electronic counting* ~~devices~~ to insert the ballots into one or more counting devices. The counting devices shall be programmed to count only votes cast for parties to the recount or for or against the question in a referendum recount. Each team shall be composed of one representative of each ~~such~~ party.

The court may provide that if , at the time of the recount, any recount official ~~shall fail~~ fails to appear, the remaining recount officials present to ~~conduct the recount~~ shall appoint substitute recount officials who shall possess the same qualifications as the recount officials for whom they substitute. ~~There may be selected by the~~ The court may select pairs of recount coordinators to serve for each county or city in the election district who shall be members of the county or city electoral board and ~~representatives of the represent~~ different political parties ~~represented on such board~~ . The court shall have authority to summon such officials and coordinators. ~~Upon~~ On request of a party to the recount, the court shall allow each ~~such~~ party to appoint ~~representatives sufficient in number to observe the recount~~ one representative observer for each team of recount officials . The expenses of ~~such~~ its representatives shall be borne by ~~such parties~~ each party .

C. ~~The recount~~ . - The court (i) shall supervise the recount and (ii) may require delivery of any or all pollbooks used ~~and~~ , any or all ballots cast at the election ~~for such candidates or for~~ or ~~against~~ such proposition , and absentee ballots sought to be cast but ruled invalid or may

assume supervision thereof through the recount coordinators and officials. At the conclusion of the recount of each precinct, the recount officials shall write down (i) in the case of *mechanical or direct electronic voting machines devices* the redetermination of the vote; and (ii) the number of valid ballots cast, this number being obtained from the ballots cast in the precinct, or from the ballots cast as shown on the statement of results if the ballots cannot be found, for each of the two candidates; ~~and or for and against the question.~~ They shall submit the ballots or the statement of results used, as to the validity of which questions exist, to the court. The written statement of any one recount official challenging a ballot shall be sufficient to require its submission to the court. For purposes of redetermining the vote cast by ~~machines, where machines are of the type any mechanical or direct electronic voting device~~ that prints returns, the printed return sheets shall be sufficient evidence of the ~~machine~~ count. ~~The numbers on voting machine counters shall prevail in cases where they exceed. If, on all mechanical or direct electronic voting devices, the number of persons voting in the election, or the number of votes cast for the office or on the question, totals more than the number of names on the pollbooks of persons voting on the devices, the figures recorded by the devices shall be accepted as correct.~~

At the conclusion of the recount of all precincts ~~the court~~, after allowing the parties to inspect the questioned ballots, and after hearing arguments, ~~the court~~ shall rule on the validity of all questioned ballots and votes ~~and by~~. By an appropriate order, ~~the court shall~~ certify to the State Board of Elections and the electoral board or boards (i) the vote ~~of~~ for each of the ~~nominees and candidates party to the recount~~ and declare the ~~persons~~ person who received the higher number of votes to be the ~~nominee or nominees, or elected official or officials or nominated or elected, as appropriate, or~~ (ii) the ~~vote votes for or and against the proposition~~ question and declare the outcome of the election ~~on the proposition referendum~~.

D. ~~Assessment of costs.~~ - Costs of the recount shall be assessed against the counties and cities comprising the election district when (i) the candidate petitioning for the recount is declared the winner; ~~or~~ (ii) the petitioners in a recount of ~~an~~ a election to submit a ~~proposition referendum~~ win the recount; or (iii) there was between the candidate apparently nominated or elected and the candidate petitioning for the recount a difference of not more than one-half of one percent of the total vote cast for the two such candidates as determined by the State Board of Elections or electoral board prior to the recount. ~~Costs~~ ~~Otherwise the costs~~ of the recount shall be assessed against ~~(i)~~ the candidate petitioning for the recount if he fails to win the recount ~~and there was between the candidate apparently nominated or elected and himself a difference of more than one-half of one percent of the total vote cast for the two such candidates as determined by the State Board of Elections or electoral board prior to the recount, and~~ ~~(ii)~~ or the petitioners in a recount of ~~an~~ a election to submit a ~~proposition~~ if they fail to win the ~~recount~~ a referendum. If more than one candidate petitions for a recount, the court may assess costs in an equitable manner between the counties and cities and any such candidate if both ~~be~~ are liable for costs under this subsection. Costs incurred to date shall be assessed against ~~such~~ any candidate or petitioner ~~in the event he who~~ defaults or withdraws his petition.

E. ~~Determination of costs.~~ - The court shall determine the costs of the recount subject to the following limitations: (i) no per diem payment shall be assessed for salaried election officials; (ii) no per diem ~~reimbursement of election payment to~~ officers of election serving as recount officials shall exceed ~~two-thirds~~ of the per diem paid such officers by the county or city for service on election day; and (iii) ~~such~~ per diem ~~reimbursement of payments to~~ alternates shall be allowed only if they serve.

F. ~~Bond by petitioner.~~ - Any petitioner; who may be assessed with costs under subsection D of this section; shall post a bond with surety with the court in the amount of ten dollars per precinct in the area subject to recount. ~~In the event~~ If the petitioner wins the recount, the bond shall not be forfeit. ~~In the event~~ If the petitioner loses the recount, the bond shall be forfeit only to the extent of the assessed costs ~~or if~~. If the assessed costs exceed the bond, he shall be liable for such excess.

G. The recount proceeding shall be final and not subject to appeal.

Drafting Note: No change in substance. Terminology is conformed to definitions and other provisions in Title 24.2. Language is added to provide for a team of recount officials for each locality using punchcard ballots and electronic counters. The ballots are to be recounted electronically on counters programmed for the recount.

The provision on allowing the parties to appoint representatives to observe the recount is modified to allow one representative per team of recount officials in place of the undefined term "sufficient in number to observe the recount."

Finally, the revision clarifies the situation in which the count shown on voting equipment exceeds the numbers in the pollbooks. The rule that the equipment count prevails is made applicable when the number exceeds the number shown on the pollbook to have voted on the equipment exclusive of paper ballot votes which are tallied separately.

Article 2.

Contested Elections.

~~§ 24.1-236.1~~ 24.2-803 . Contest of election to General Assembly.—A. ~~Applicability.~~ - This section ~~shall apply~~ *applies* to any general or special election of members to the General Assembly.

B. ~~Standing; notice of intent to contest.~~ - A contest of the election of any member to the General Assembly may be initiated by an unsuccessful candidate in the election ~~who shall be~~ , referred to hereafter as the contestant.

To initiate a contest, the contestant shall give written notice, in the manner provided in subsection D, of his intent to contest the election to the person or persons apparently elected, referred to hereafter as the contestee, and to the ~~clerk~~ Clerk of the House of Delegates if he is contesting a House election or of the Senate if he is contesting a Senate election, ~~as appropriate,~~ within twenty days following the date of the election.

~~His~~ *The* notice shall state the grounds ~~upon~~ *on* which the contestant intends to contest the election. The grounds ~~must shall~~ include ~~either~~ (i) objections to the eligibility of the contestee based on specific allegations, ~~or~~ (ii) objections to the conduct or results of the election ~~in which case the notice must include~~ *accompanied by* specific allegations which, if proven true, would have a probable impact ~~on~~ the outcome of the election, or (iii) both.

The notice shall ~~also~~ state that an answer ~~thereto~~ by the contestee must be filed with the clerk of the appropriate house within ten days following service of the notice. The ~~notice shall be signed by the contestant and verified shall sign and verify the notice~~ by his oath or affirmation.

C. ~~Answer.~~ - Any contestee ~~upon whom a notice of contest is served pursuant to this section; within~~ *Within* ten days following ~~after service thereof, of the contestant's notice on the contestee,~~ the contestee shall file with the clerk of the appropriate house a written answer. His answer shall admit or deny the allegations ~~upon~~ *on* which the contestant relies, or state that he has no knowledge or information concerning an allegation which shall be deemed denial, and state any other defenses, in law or fact, on which he relies. The contestee shall sign and verify ~~such~~ *his* answer by *his* oath or affirmation.

D. ~~Service of process and evidence.~~ - The notice of intent to contest shall be filed by the contestant with the clerk of the appropriate house and copies thereof served by the contestant as provided under § 8.01-296 ~~upon~~ *on* each contestee. The answer, petition, and any reply and copies thereof shall be filed with the appropriate clerk, and the copies served by the clerk on the counsel of record as provided under Rule 1:12 of the Rules of the Supreme Court of Virginia.

After service of the notice of intent, any party, after reasonable notice to the other party or parties, shall be authorized to take depositions to sustain or invalidate the election. The contestant shall complete the taking of depositions to submit with his petition at any time within thirty days following the date of the election, and ~~the~~ contestee shall complete the taking of his depositions within forty-five days following the date of the election. By written stipulation of the parties, the testimony of any witness may be filed in the form of an affidavit by ~~such~~ *the* witness within the same time limitations prescribed for the taking of depositions.

Subpoenas for witnesses shall be issued by the clerk of the circuit court of the county or city in which the contestee resides ~~upon~~ *on* the application of either party. ~~Such witnesses~~ *Witnesses* shall be entitled to the same allowances and privileges, and be subject to ~~the~~ same penalties, as witnesses summoned to attend the courts.

Every deposition shall be taken before a person authorized by law to administer oaths, who shall certify and seal the deposition in the same manner as in judicial civil proceedings, and file the same with the clerk of the appropriate house.

E. ~~Petition.~~ - A written petition shall be filed by the contestant with the clerk of the

appropriate house (i) within two days following the second Wednesday in January if the contested election were held at a November general election ; and (ii) within twenty days following the date of the election or within two days following the commencement of the next session of the General Assembly, whichever is later, if the election were held on a different date ; provided that if . The contestee may file a written reply to the petition within five days following its service on him.

F. If the election were held during a regular session of the General Assembly, the times for filing the notice of intent to contest, the answer, petition, and reply and for taking depositions and affidavits may shall be set by agreement of the parties, subject to the approval of the Committee on Privileges and Elections of the appropriate house. The contestee may file a written reply to the petition within five days following its service on him. The Committee may consider the contestant's and contestee's recommendations for the procedural schedule.

F. Procedures in the house. - G. The clerk shall refer the notice, answer, petition, reply, depositions, and affidavits to the appropriate committee Committee on Privileges and Elections , which documents shall constitute the record in the contest.

The Unless another committee has been designated by the rules of the house to hear the contest matters, the Committee on Privileges and Elections shall hear the contest and conduct such investigation as has been directed by resolution of its house. It shall report its findings and recommendations to the house for its action.

G. Relief. - H. The house, in its judgment, may find for the contestant and declare him elected, find for the contestee and confirm his election, or declare the election void and order a writ of election as in other cases of vacancy. If the house finds a tie vote has occurred, it shall direct a determination by lot in accordance with § ~~24.1-140~~ 24.2-674 , but no right to a recount shall be permitted.

Drafting Note: In the unlikely situation of a contest involving a special election held during a session, present subsection E provides for a special procedural schedule to be approved by the Committee on Privileges and Election. Under proposed subsection F, the Committee is given primary responsibility to set the schedule to avoid any deadlock by the parties to the contest. See, also, § 24.2-814.

Present law specifies that the Committee on Privileges and Elections acts on scheduling matters under existing subsection E and that the "appropriate" committee or committee designated by the house rules shall hear and investigate a contest under existing subsection F. This inconsistency is resolved by designating the Committee on Privileges and Elections to act in contest matters unless the house designates another committee in its rules.

§ ~~24.1-237~~ 24.2-804 . ~~Contests~~ Contest of elections of Governor, Lieutenant Governor , and Attorney General.—In any election for Governor, Lieutenant Governor, and or Attorney General, notice of the intent to contest such the election shall be filed with the Clerk of the House of Delegates as prescribed in § ~~24.1-236.1~~ 24.2-803 . The provisions of § ~~24.1-236.1~~ governing 24.2-803 shall govern standing, notice of intent to contest, answers, service of process, evidence, the petition, procedures, and relief shall be applicable in any such contest except (i) that in a contest of an election held at the November general election the petition shall be filed within two days following the commencement of a special session of the General Assembly called for the purpose of hearing the contest or of the next regular session of the General Assembly, whichever first occurs, and (ii) that the final determination shall be made by the General Assembly, both branches thereof houses sitting in joint session in the hall of the House of Delegates, at which joint session with the Speaker of the House of Delegates shall preside presiding .

Drafting Note: Stylistic changes only.

§ ~~24.1-238~~ 24.2-805 . Contest of elections of electors for President and Vice-President or nominations primaries for United States Senate or statewide office.—In the case of an election of electors for the President and Vice-President of the United States, or a nomination of a candidate for election to primary for the United States Senate ; or for nomination for election to any statewide office, the proceeding to contest shall be in the Circuit Court of the City of Richmond before a special court composed of the chief judge of such circuit court and two circuit court judges of circuits not contiguous to the City of Richmond appointed by the Chief Justice of the Supreme Court of Virginia, or, in the event of his inability to act, then by the next senior justice of such court , which appointing justice who shall at the time of appointment

set the date for trial.

If the chief judge of the Circuit Court of the City of Richmond be is absent or , unable to sit in such the proceeding, or in the event such judge shall enter of record that he is so situated with respect to the proceeding as to render it improper, in his opinion, for him to sit in such proceeding and recuses himself, the clerk of the court shall at once certify the same that fact to the Chief Justice of the Supreme Court of Virginia, then a third judge shall be designated in the same manner as were the two remaining judges, except that in appointing such third judge, the . Then the Chief Justice of the Supreme Court of Virginia or the associate justice acting in his stead shall ; if possible, appoint a third judge , who shall be, if possible, a judge of the Circuit Court of the City of Richmond or an adjoining circuit.

Drafting Note: No change in substance. The term "primary" is used rather than "nomination for election" since the provisions are applicable to primaries but not to other methods for party nominations.

§ ~~24.1-220~~ 24.2-806 . Contest of other nominations primaries and elections.—In the case of a nomination of a candidate for election to the a primary for the United States House of Representatives of the United States , or the nomination for election to the State Virginia Senate, the House of Delegates, or the nomination or election of a candidate to any county, city, town, or district office, or an election to any county, city, town, or district office, the proceeding to contest shall be in the circuit court of the county or city in which the challenged candidate resides. The proceeding shall be before a special court composed of the chief judge of such circuit court and two circuit court judges of circuits remote from the county or city in which such candidate resides, appointed by the Chief Justice of the Supreme Court of Virginia, or, in the event of his inability to act, then by the next senior justice of such court , who shall at the time of appointment set the date for trial.

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

Drafting Note: No change in substance. The term "primary" is used for the reason stated for proposed § 24.2-805.

§ ~~24.1-240~~ 24.2-807 . Contest only upon on complaint of unsuccessful party; contents of complaint.— Any The provisions of this section and §§ 24.2-808 through 24.2-813 govern contests conducted pursuant to §§ 24.2-805 and 24.2-806. The contest of any election to any office not referred to by § ~~24.1-226.1~~ or § ~~24.1-227~~ shall be initiated only by a written complaint of one or more of the unsuccessful candidates for election thereto. In the case of a contest pursuant to §§ ~~24.1-228~~ and ~~24.1-230~~ such . The complaint shall contain either (i) objections to the eligibility of the contestee based on specific allegations, or (ii) objections to the conduct or results of the election in which case the notice must include accompanied by specific allegations which, if proven true, would have a probable impact on the outcome of the election, or (iii) both.

In the case of an election of electors for the President and Vice-President of the United States, the presidential and vice-presidential candidates and not the electors shall be deemed the candidates candidate shall represent the vice-presidential candidate and slate of electors and be the party to the contest for purposes of this section article .

Drafting Note: The presidential candidate is specified to be the party to a contest and representative for the vice-presidential candidate and slate of electors. This change clarifies that there is one party to the contest proceedings for the entire slate. See, also, § 24.2-800.

§ ~~24.1-241~~ 24.2-808 . Time of filing and service of complaint; enlargement or amendment of complaint.—The contestant shall file his complaint shall be filed in the clerk's office of the circuit court within thirty days following the date of the election in the case of a general election, and within ten days following the date of the election in case of a primary election or special election held on a date other than that of a general election and a copy thereof . A

copy of the complaint shall be served ; as a notice is served by the contestant as provided under § 8.01-296 ; on the each contestee ; ; otherwise the complaint shall not be valid.

No enlargement or amendment of the complaint and no amendment thereto , except as to form, shall be permitted save by leave of court as provided in Rule 1:8 of the Rules of the Supreme Court of Virginia.

Drafting Note: Stylistic changes only.

§ ~~24.1-242~~ 24.2-809 . Filing answer; contents; enlargement or amendment prohibited of answer.—The contestee shall, within ten days after the complaint is served on him, file in the clerk's office an answer, in which he shall admit or deny the allegations upon on which the contestant relies, or state that he has no knowledge or information concerning an allegation which shall be deemed denial, and state any other defenses, in law or fact, on which he relies. If no such answer be is filed within the time prescribed, the contestee shall not be heard to assert any claim or objection which is herein required by this section to be stated in such the answer.

No enlargement or amendment of the answer and no amendment thereto , except as to form, shall be permitted save by leave of court as provided in Rule 1:8 of the Rules of the Supreme Court of Virginia.

Drafting Note: No change in substance.

§ ~~24.1-243~~ 24.2-810 . Taking depositions and deciding contests.—After service of a copy of the complaint ; any party, and after reasonable notice to the other party or parties, any party shall be authorized to take depositions to sustain or invalidate the election or return . The proceedings shall take precedence over all other business of the court or of any of the judges and shall be heard and determined as soon as possible. The contest shall be heard and determined without a jury, on the testimony thus taken and upon on any other legal testimony that may be adduced by any party. In judging of such election or return the contest , the court shall proceed on the merits thereof and decide the same according to the Constitution and statutes of the Commonwealth.

Drafting Note: No change in substance.

§ ~~24.1-244~~ 24.2-811 . Costs and issuance of certificate of election.—When the contest is decided, costs shall be taxed against the candidate filing such the complaint if he shall be is unsuccessful, and or, if he is successful, then the costs shall be taxed against the county or city or counties or and cities included in the area in which such the election was held. A certificate of election shall be granted to the successful party, unless he shall have has already received one.

Drafting Note: No change in substance.

§ ~~24.1-245~~ 24.2-812 . Proceedings when court decides no valid election has been held.—If the court shall be of the opinion decides that there has been no valid election of any person, the proceedings shall be in conformity with §—24.1-76 it shall declare the election void and the vacancy shall be filled in conformity with §§ 24.2-226 and 24.2-227 .

Drafting Note: No change in substance.

§ ~~24.1-246~~ 24.2-813 . Proceedings in contest for nominee.—In deciding any contest of a primary election, if the court can determine the candidate who has received a plurality of valid votes in the primary, it shall certify the name of such that candidate to the State Board and the proper electoral board or boards and such . The candidate so certified shall be the party nominee and his name shall be printed on the official ballot to be used in for the election for which the primary was held. The name of no other person who was a candidate for the contested office in the primary shall be printed on the official ballots as a candidate for that office.

If ; in such case, the court be is unable to determine which primary candidate received a plurality of valid votes ; or ; if the court determine decides that there has been no valid election, the party nominee shall be determined in accordance with the provisions of § ~~24.1-107~~

of the Code 24.2-539 .

Drafting Note: No change in substance except to require notice to the State Board of Elections of the contest winner.

~~§ 24.1-241.1~~ 24.2-814 . Contest following recount.—A candidate ~~for nomination or in a primary~~ or an election to office, who was originally declared a winner and subsequently loses as the result of a recount, may file *either* (i) notice of his intent to contest the result in accordance with ~~§ 24.1-236.1~~ 24.2-803 or ~~§ 24.1-237~~ 24.2-804 or (ii) a written complaint pursuant to ~~§ 24.1-238~~ 24.2-805 or ~~§ 24.1-239~~ 24.2-806. *Such notice or complaint shall be filed within ten days following the date of the entry of the order of the recount court pursuant to § 24.1-250 C subsection C of § 24.2-802 .*

In the case of a contest pursuant to § 24.2-803 or § 24.2-804, the times for filing the answer, petition, and reply and for taking depositions and affidavits shall be set by the Committee on Privileges and Elections of the appropriate house. The Committee may consider the contestant's and contestee's recommendations for the procedural schedule.

Drafting Note: The final paragraph is added to eliminate a problem under present law which spells out the timetable for contests heard in the General Assembly. That timetable requires the taking of depositions and filings based on the date of the election being contested. Those deadlines can precede the conclusion of a recount and are impractical when a contest follows a recount. The new final paragraph provides that the Committee on Privileges and Elections will set the procedural schedule. This provision parallels the proposed provision for contests to elections held while the General Assembly is in session, another situation in which the usual schedule needs modification. See subsection F of proposed § 24.2-803.

CHAPTER 9.

CAMPAIGN FINANCE DISCLOSURE ACT.

Chapter Drafting Note: The existing Fair Elections Practices Act is misnamed since it addresses only finance disclosure and not the full range of campaign practices and conduct. Proposed Chapter 9's title accurately reflects the subject of the chapter.

Proposed Chapter 9 arranges the existing Code provisions relating to campaign finance into five separate articles in order to make the provisions more understandable to those who must comply with the campaign finance regulations. In this regard, a new definitions section is included in Article 1 so that the remainder of the chapter can be simplified and shortened. The definitions largely are taken from provisions scattered throughout the existing Fair Elections Practices Act.

Proposed Article 2 includes the procedures which political candidates must follow to receive contributions and make expenditures and to maintain records for the purpose of meeting campaign finance disclosure report requirements. Proposed Article 3 in turn contains the provisions specifying the conditions under which political committees, including party committees, and other individual or corporate persons must comply with campaign finance disclosure requirements. Both proposed articles rearrange existing provisions for simplicity and clarification but do not make substantive changes in existing requirements.

The contents of, and filing schedules for, disclosure reports are collected in proposed Article 4. Also included are the provisions for closing accounts and the disposition of excess funds. The proposed article simplifies the statement of these requirements without substantively changing the existing reporting format or schedule. Proposed Article 5 continues the existing penalties for violations of campaign disclosure requirements, clarifying that the civil penalties for late or incomplete filings for statewide campaigns are in addition to the general civil or criminal penalties which apply to all elections.

Article 1.

General Provisions.

~~§ 24.1-251~~ 24.2-900 . Elections to which chapter applicable; chapter exclusive.—The provisions of this chapter shall apply to all elections, *including referenda, and to nominating conventions, mass meetings, and other methods to nominate a political party candidate for public office, held within the Commonwealth except any election elections for* (i) members of the United States

Congress, ~~or any election for any~~ (ii) town office in a town with a population of less than 25,000, ~~or any election for~~ (iii) directors of soil and water conservation districts, or (iv) political party committees. Every candidate for the United States Congress shall file with the State Board of Elections certified copies of all reports of campaign contributions and expenditures required by the laws of the United States. ~~Elections to which this chapter is applicable shall not be subject to further regulation by local law, and this~~ This chapter shall constitute the exclusive and entire ~~fair election practices~~ campaign finance disclosure law of the Commonwealth, ~~and elections to which the chapter applies shall not be subject to further regulation by local law.~~

Drafting Note: The existing Fair Elections Practices Act is misnamed since it addresses only finance disclosure and not the full range of campaign practices and conduct. Proposed Chapter 9's title accurately reflects the subject of the chapter. The Attorney General has opined that local fair elections codes were not permissible under the existing language which made the state law the exclusive and entire *fair elections practices* law of the Commonwealth. In changing the nomenclature in the last sentence, it is possible that the door will be opened for local governments to adopt local codes addressing fair elections practices beyond campaign finance. The first sentence is amended to call attention to the fact that some campaign finance disclosure requirements apply not just to nominations and elections for office but to referendum elections as well. See subsection C of existing § 24.1-255, for example.

§ 24.2-901. *Definitions.*—As used in this chapter, unless the context requires a different meaning:

“Campaign committee” means the committee designated by a candidate to receive all contributions and make all expenditures for him or on his behalf in connection with his nomination or election.

“Contribution” means money and services of any amount, and any other thing of value over \$100, given, advanced, promised, loaned, or in any other way provided to a candidate, campaign committee, political committee, inaugural committee, or person for the purpose of influencing the outcome of an election or defraying the costs of the inauguration of a Governor, Lieutenant Governor, or Attorney General. “Contribution” includes money, services, or things of value in any way provided by a candidate to his own campaign.

“Expenditure” means money and services of any amount, and any other thing of value over \$100, paid, promised, loaned, provided, or in any other way disbursed by any candidate, campaign committee, political committee, inaugural committee, or person for the purpose of influencing the outcome of an election or defraying the costs of the inauguration of a Governor, Lieutenant Governor, or Attorney General.

“Inaugural committee” means any committee which anticipates receiving contributions or making expenditures, from other than publicly appropriated funds, for the inauguration of the Governor, Lieutenant Governor, or Attorney General and related activities.

“Independent expenditure” means an expenditure made by any person or political committee which is not made to, controlled by, coordinated with, or made upon consultation with a candidate, his campaign committee, or an agent of the candidate or his campaign committee.

“Person” means any individual or corporation, partnership, business, labor organization, membership organization, association, cooperative, or other like entity.

“Political action committee” means any organization, other than a campaign committee or political party committee, established or maintained in whole or in part to receive and expend contributions for political purposes.

“Political committee” means any state political party committee, political action committee, or other committee or group of persons which receives contributions or makes expenditures for the purpose of influencing the outcome of any election. The term shall not include: a campaign committee; a district, county, or city political party committee; or an organized political party group of elected officials.

Drafting Note: A definitions section is added so that the remaining sections of the chapter can be simplified and shortened. The definitions largely are taken from provisions scattered throughout the existing Fair Elections Practices Act. The term “committee” as used in the existing Act has been broken into definitions of “political committee” and “person” in order to

clearly alert both individuals and corporations, businesses, labor organizations, and like entities that their campaign finance activities are subject to disclosure.

§ 24.2-902. *Services and things of value.*—*In determining the value of services or things of value for the reporting purposes of this chapter, a reasonable value shall be designated therefor and the basis for arriving at such designated value shall be stated in all reports. Services shall not be deemed to include personal services voluntarily rendered for which no compensation is asked or given.*

Drafting Note: These terms are used repeatedly in the existing Fair Elections Practices Act but the provisions of proposed § 24.2-902 are now found only in existing § 24.1-255. Proposed § 24.2-902 places this information in the general provisions article immediately following the definitions section which uses the terms in defining “contribution” and “expenditure.”

§ ~~24.1-252~~ 24.2-903 . Summary of election laws; forms.—The State Board of ~~Elections~~ shall summarize the provisions of the election laws relating to campaign contributions and expenditures and provide for distribution of this summary and prescribed forms to all ~~candidates for nomination for or election to office at the time such candidates file either pursuant to § 24.1-253 or for nomination or election each candidate, person, or committee on request or upon their first filing with the State Board pursuant to this chapter, whichever occurs first~~ . The Board shall designate the form of the report of ~~expenditures and contributions and expenditures~~ which shall be the only such form used in complying with the provisions of this chapter. The Board shall also prescribe a separate form for ~~the required reporting of certain large expenditures and contributions required to be reported separately and expenditures~~ pursuant to § ~~24.1 257.1 and 24.1 257.2~~ 24.2-919 .

Drafting Note: A provision is added requiring the State Board to provide the disclosure law summary and forms to entities when they request or first file with the Board under the chapter. The summary now prepared by the Board contains the instructions and it is desirable that all such entities be on notice of the requirements. Candidates who do not file with the State Board often request and are sent information by the Board. Local registrars provide reporting forms to the candidates who file locally.

Article 2.

Candidates and Campaign Committees.

§ ~~24.1-252~~ 24.2-904 . Appointment of campaign treasurer and ; designation of campaign committee and depository .— (a) A. Upon ~~or before the acceptance of accepting any contribution or the expenditure of any funds for his candidacy or upon or before qualifying as a candidate, whichever first occurs~~ , each candidate for nomination ~~for, or election to, any office in the Commonwealth~~ shall appoint ~~only one~~ a single campaign treasurer and may designate not more than one campaign committee to receive all contributions and ~~to make all expenditures for him or on his behalf of the candidate in connection with his nomination or election and to file the reports required by this chapter. At the same time he shall designate a campaign depository in a financial institution within the Commonwealth.~~ He shall provide, on a form prescribed by the State Board of Elections , the name and address of the campaign treasurer , ~~the name of the financial institution and account number for his campaign depository,~~ and, if one, the name of the campaign committee.

He shall file ~~such~~ the form ~~(i)~~ with the (i) electoral board of the county or city in which he resides if he is a candidate for local office, (ii) ~~with the~~ electoral board of the county or city in which he resides and ~~with the State Board of Elections~~ if he is a candidate for a ~~constitutional office shared by two or more counties and cities or the General Assembly, or~~ (iii) ~~with the State Board~~ if he is a candidate for statewide office. Every treasurer so appointed shall accept ~~such~~ the appointment, in writing on ~~such~~ the form, prior to the filing thereof. ~~Any candidate who fails to so appoint and report the appointment of a treasurer shall be deemed to have appointed himself treasurer, and shall comply as such with the provisions of this chapter. No individual shall act as treasurer unless the required statement of appointment shall have been filed. No individual shall be appointed or act as treasurer in any election who is not a qualified voter of the Commonwealth ; however, the . The same person may serve as campaign treasurer for more than one candidate.~~

B. In the event of the death, resignation, removal, or change of the treasurer, the candidate shall designate a successor and file the name and address of ~~any~~ the successor within ten days

of the change with the *State Board, local electoral board where he resides*, or with both the ~~electoral board where he resides and the State Board~~, or with the ~~State Board only~~, as ~~appropriate provided in subsection A~~.

C. Any candidate who fails to appoint and report the appointment of a *treasurer or successor treasurer* shall be deemed to have appointed himself treasurer and shall comply as such with the provisions of this chapter.

(b) ~~through~~ (d) [Repealed.]

Drafting Note: The requirements for a candidate to appoint a campaign treasurer and designate a campaign depository are made contingent on the acceptance of a contribution. The opening of an account requires funds to deposit and so the report is required when a contribution is accepted and the account can be opened. This provision is derived from § 24.1-254. The requirements that shared constitutional office candidates file at the state level is deleted to conform to the pattern for other filings for such candidates and for constitutional office and local candidates generally. Other changes are stylistic only.

~~§ 24.1-254~~ 24.2-905 . Campaign depositories; petty cash fund.— ~~Each candidate shall designate, on the form required by § 24.1-253, a campaign depository in a financial institution within the Commonwealth and all . All funds and monetary contributions received by the candidate or his campaign committee, as soon as practicable after receipt thereof, shall be deposited by the treasurer in the designated campaign depository in an account properly identifying the name of and the existence of the political candidacy. No candidate, campaign treasurer , or other individual shall pay any expense on behalf of a candidate, directly or indirectly, except by check from such designated depository; provided however, that a treasurer may establish a petty cash fund to be utilized for the purpose of making expenditures of less than twenty-five dollars ; if complete records of such expenditures are maintained as required by this chapter.~~

Drafting Note: No change in substance. The first stricken provision is incorporated in § 24.2-904.

~~§ 24.1-256~~ 24.2-906 . Books and records of candidate or his treasurer.—~~Every candidate or his treasurer shall keep detailed ; full and accurate accounts of all contributions ; money, services or valuable things over \$100 in value, received, promised, loaned or borrowed, or reported, and of all expenditures, disbursements and promises of payment or disbursements of money or valuable things over \$100 in value made by turned over to and expenditures made by the candidate or his treasurer on behalf of the candidate or his campaign committee, or reported to any candidate or by such his treasurer pursuant to § 24.2-907 . Such statement and account shall set forth the sum of valuable thing over \$100 in value so received, or disbursed, or promised, loaned or borrowed, or reported, as the case may be, and the date when, the name and address of the person from whom received, promised, loaned or borrowed, or reported, or to whom paid or promised, as the case may be, and the object and purposes for which the money, or other valuable thing, was received, or disbursed, or promised, as the case may be date of the contribution or expenditure, its amount or value, the name and address of the person or committee making the contribution or to whom the expenditure was made, and the object or purpose of the contribution or expenditure . Such books and records may be destroyed or discarded at any time after (i) one year from the date of filing the final report required by § 24.1-257.2 24.2-920 or (ii) three years after the December 31 immediately following the election, whichever last occurs, unless a court of competent jurisdiction shall order their retention for a longer period.~~

Drafting Note: No change in substance. Under existing provisions, carried forward in proposed §§ 24.2-904 and 24.2-907, all contributions and expenditures go through the treasurer. If no treasurer is appointed, the candidate is deemed to be the treasurer under existing § 24.1-253 and proposed § 24.2-904.

~~§ 24.1-255~~ 24.2-907 . ~~Money, etc., Contributions and expenditures to be paid or reported to treasurer ; duties of committees; report of persons receiving or disbursing moneys, etc .—A. All moneys, services, or other things of value over \$100, collected, contributions and expenditures received or disbursed made by or on behalf of any candidate , or received or made on his behalf or in relation to his candidacy from every source by any individual or entity , except independent expenditures, shall be paid over or delivered to the candidate's treasurer or shall be reported to such candidate's the treasurer in such detail and form as to allow the treasurer him~~

to comply fully with this chapter. An independent expenditure shall be reported pursuant to § ~~24.1-257.1~~ 24.2-910 in lieu of being reported to the candidate's treasurer ~~hereunder~~ . An independent expenditure means an expenditure made by anyone, including any committee as defined in § 24.1-254.1, which is not made to, controlled by, coordinated with, or made upon consultation with a candidate, his campaign committee, or an agent of the candidate or his campaign committee.

B. It shall be unlawful for any candidate, or anyone, including any committee as defined in § ~~24.1-254.1~~, collecting, receiving, disbursing or expending money, services, or other things of value over \$100 any individual or entity receiving contributions or making expenditures on a candidate's behalf or in relation to his candidacy, to fail to report every such collection, receipt, disbursement or contribution and expenditure as required herein in subsection A and in this chapter.

Except as provided in the preceding paragraph and in § ~~24.1-257.2~~, any district, county or city political party committee shall be exempt from the requirements of this chapter, but contributions made by any such political party committee to any candidate, his campaign committee, or committee as defined in § 24.1-254.1, shall be reported in accordance with the provisions of this chapter by the recipient of the contribution.

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

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

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

Drafting Note: The changes in subsections A and B are stylistic and clarifying. The stricken language in subsections A and B, and all of subsections C and D, have been incorporated in proposed §§ 24.2-901, 24.2-902, 24.2-910, and 24.2-911.

The term "by any individual or entity" is used instead of "from every source" to emphasize the duty under existing law of anyone collecting or disbursing funds, including any political party committee, to provide the candidate's treasurer with the information needed to make a complete report of financing activity on behalf of a candidate. While district and local party committees need not report nondesignated contributions received by the committee, they are required to report expenditures for the candidate's campaign to his treasurer. Any party committee under existing law also must report any contribution earmarked or designated for a specific candidate to the State Board.

Article 3.

Persons and Committees Other Than Campaign Committees.

§ ~~24.1-254.1~~ 24.2-908 . Statement of organization.— (a) The term "committee" as used herein shall include each person, association, organization, group of individuals, any state political party, political action committee, or other committee which anticipates receiving contributions or making expenditures during the calendar year in an aggregate amount exceeding \$100, but shall not include a candidate's campaign committee or a district, county, or city political party committee or an organized political party group of elected officials. Each person and political committee which anticipates receiving contributions or making expenditures in excess of \$100 shall file with the State Board of Elections a statement of organization (i) within ten days after its organization or, if later, within ten days after the date on which it has information which causes the person or committee to anticipate it will receive contributions or make expenditures in excess of \$100 or on which it otherwise becomes subject to the provisions of this section ; chapter, and (ii) annually thereafter by January 15. This requirement shall not apply to a person or committee whose only disbursement is in the form of a contribution and which itself

receives no contributions from which the disbursement is made.

~~(b)~~ The statement of organization shall include:

~~(1)~~ 1. The name and address of the person or committee;

~~(2)~~ 2. The names, addresses, and relationships of affiliated or connected organizations;

~~(3)~~ 3. The area, scope, or jurisdiction of the person or committee;

~~(4)~~ 4. The name, residence and business addresses, and position of the custodian, if any, of books and accounts;

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

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

7. In the event the person or committee is promoting or opposing a referendum, the subject of the referendum, the date and location of the election, and a statement whether the person or committee is promoting or opposing the referendum question;

8. In the case of an inaugural fund committee, the name, address, and office to which elected of the person on whose behalf the committee is organized;

~~(7)~~ 9. A statement whether the person or committee is a continuing one;

~~(8)~~ 10. The disposition of residual funds which will be made in the event of dissolution;

~~(9)~~ 11. A listing of all banks, ~~safety-deposit~~ safe-deposit boxes, or other repositories used; and

~~(10)~~ [Repealed.]

~~(11)~~ 12. Such other information as shall be required by the State Board of Elections.

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

~~(d)~~ Any person or committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$100 shall so notify the secretary of the State Board of Elections.

Drafting Note: The term "person or committee" is used throughout the proposed section to emphasize that not only political committees but individuals, corporations, unions and other persons must file statements of organization if they meet the requirements of the section. Language is added in the first paragraph to clarify that an individual, corporation, or other entity whose only action is to make a contribution out of personal or corporate funds is not required to file a statement of organization. Only upon (i) receiving contributions and then making political contributions from collected funds or (ii) by making independent expenditures from funds from any source is a person or committee required to file a statement of organization. New subdivisions 7 and 8 recognize that referenda also are subject to disclosure requirements and that inaugural committees should file a statement of organization. The stricken language in the first paragraph is a definition found in proposed § 24.2-901.

~~§ 24.1-254.2~~ 24.2-909. *Political Establishment of political action committees by certain entities*. —A. *Definition.* - A political action committee is any organization, other than a campaign committee or political party committee, established or maintained to receive and expend contributions for political purposes, and subject to the provisions of §§ 24.1-254.1 and 24.1-255.

B. *Establishment.* - Any stock or nonstock corporation, labor organization, membership organization, or cooperative, or other group of persons may establish and administer for

political purposes, and solicit and expend contributions for, a political action committee, provided that:

1. No political action committee shall make a contribution or expenditure by utilizing money or anything of value secured by physical force, job discrimination, financial reprisal, or threat of force, or as a condition of employment.

2. Any person soliciting a contribution to such a political action committee shall, at the time of such solicitation, inform the person being solicited of (i) his right to refuse to contribute without any reprisal; and (ii) the political purposes of such political action committee.

Drafting Note: The stricken definition of political action committee is placed in the proposed definitions section (§ 24.2-901).

§ 24.2-910. Persons and political committees required to file disclosure reports.—A. Any person or political committee required to file a statement of organization by § 24.2-908 shall be required to maintain records and file disclosure reports as provided in Article 4.

B. Any person or political committee making independent expenditures shall maintain records and report pursuant to Article 4 all contributions received and expenditures made of:

1. Any funds, in the aggregate, in excess of \$500 for a statewide election or \$100 for any other election expended for the purpose of influencing the outcome of any election;

2. Any funds in any amount expended to publish or broadcast to the public any material referring to a candidate by name, description, or other reference and (i) advocating his election or defeat, (ii) setting forth his position on any public issue, voting record, or other official acts, or (iii) otherwise designed to influence individuals to cast their votes for or against him or to withhold their votes from him; and

3. Any funds in any amount expended to publish or broadcast to the public any material promoting or opposing a question submitted to the voters in a referendum.

Drafting Note: Proposed subsection A states explicitly the existing requirements that persons and political committees file disclosure reports. Proposed subsection B is taken from subsection C of existing § 24.1-255. The provisions are arranged for greater clarity but the requirements are not changed substantively.

§ 24.2-911. Certain political party committees exempt.—Except as provided in §§ 24.2-907 and 24.2-912, any district, county, or city party committee and any organized political party group of elected officials shall be exempt from the reporting requirements of this chapter. Contributions made by such committee or group to any candidate, his campaign committee, or a political committee shall be reported by the recipient of the contribution in accordance with the provisions of this chapter.

Drafting Note: Proposed § 24.2-911 is taken from subsection B of § 24.1-255 without substantive change. As under existing law, the listed party committees and groups are required to report to the State Board only. (i) expenditures made on behalf of a candidate to his treasurer and (ii) contributions given to the party and designated for a candidate.

~~§ 24.1-257.3~~ 24.2-912 . Report of certain contributions received by Political party committees required to report designated contributions .— A. Every political party committee, which shall include any state, district, county or , and city party committee or and every organized political party group of elected officials ; shall be required to file a report of contributions including money, services or other things of value over \$100, received by it and designated in writing or , orally , or otherwise by the contributor for the election of a specified candidate or candidates . The form of the report (i) shall (i) be on a form prescribed by the State Board of Elections and may be incorporated in the report of contributions and expenditures prescribed in § 24.1-258 24.2-914 , (ii) shall provide for the reporting of the receipt and disbursement of designated contributions, including information to identify the contributor, as provided in § 24.1-258 24.2-914 , and (iii) shall include the name of the candidate for whose election the contributor has designated the contribution : Such reports , and (iv) shall be filed with the State Board of Elections in accordance with § 24.1-257.1 24.2-923 .

B. Either the failure to file any report or the late filing of any report required by this

section shall constitute a violation of this chapter subject to the penalties provided in § 24.2-929.

Drafting Note: No change in substance. The phrase "or otherwise" is added to ensure any form of designation is covered. The phrase "or candidates" is added at the end of the first sentence to cover contributions designated in support of more than one candidate or for a slate of candidates. The statement regarding penalties for violation is the same as in proposed § 24.2-927 and is included here to ensure proper notice to the parties.

~~§ 24.1-254.3~~ 24.2-913 . **Inauguration** ~~Inaugural fund committees ; schedule of reports of contributions and expenditures to be filed; excess funds .— A. The term "committee" as defined in § 24.1-254.1 and used in this chapter includes any person, association, organization, group of individuals, or other committee which anticipates receiving contributions or making expenditures, from other than publicly appropriated funds, for the inauguration of the Governor, Lieutenant Governor, or Attorney General and related activities. Inaugural funds shall be maintained. Any inaugural fund committee shall maintain all inaugural funds in a separate account and in such detail and form as to allow full compliance with this chapter. A candidate's campaign committee shall not serve as an inaugural fund committee. All filing and reporting requirements imposed by this chapter shall apply to inaugural fund committees except as modified by this section specifically provided otherwise .~~

~~B. In lieu of the reporting schedule imposed by § 24.1-257.1, an inaugural fund committee shall file the report of contributions and expenditures as prescribed in § 24.1-258 in accordance with the following schedule: not later than March 15 immediately following the inauguration for all contributions and expenditures made prior to the preceding March 1; not later than July 15 of the inauguration year complete through June 30; not later than the following January 15 complete through December 31; and annually thereafter until a final report is filed. The final report shall set forth (i) all receipts and disbursements not previously reported, (ii) an accounting of the retirement of all debts, and (iii) the disposition of all residual funds. The final report shall include a termination statement, signed by an officer of the committee, that all reporting is complete and final.~~

~~C. It shall be unlawful for any person to disperse any funds or receipts of an inaugural fund committee, which are in excess of the amount necessary to defray expenditures for inaugural activities, other than by one or any combination of the following: (i) transferring the excess to a campaign committee for the inaugurated official in a subsequent election; (ii) returning the excess to a contributor in an amount not to exceed the contributor's original contribution; (iii) donating the excess to any organization described in § 170 (e) of the Internal Revenue Code; (iv) contributing the excess to one or more candidates or to any committee which has filed a statement of organization pursuant to § 24.1-254.1; (v) contributing the excess to any political party committee; and (vi) defraying any ordinary, nonreimbursed expense of the inaugurated official related to his elective office.~~

Drafting Note: The stricken language is moved to proposed § 24.2-901 (definitions) and to proposed §§ 24.2-924 and 24.2-925.

Article 4.

Disclosure Reports.

~~§ 24.1-258~~ 24.2-914 . **Form of Information to be included on report of contributions and expenditures.**— A. The report required by this chapter to be filed shall be filed on a form prescribed by the State Board and shall include all contributions and expenditures ; except the payment of a filing fee paid by a candidate or his treasurer, and shall set forth the following: . All completed forms shall be submitted in typed, printed, or hand printed format. Persons submitting the forms shall do so subject to felony penalties for making false statements pursuant to § 24.2-1016.

~~(1) Receipts~~ B. The report of receipts shall include the :

1. The total number of contributors who have , each of whom has contributed ; in the an aggregate ; of \$100 or less each as of the date of the report, and the total amount of contributions from all such contributors ; ;

2. For each contributor ; who has contributed ; in the an aggregate ; of more than \$100 as of the date of the report, give the name of the contributor, listed alphabetically, the address of the contributor, the amount of the contribution included in the schedule of receipts, the

aggregate amount of contributions from the contributor to date, and the date of the last contribution; and ~~for~~

3. For each contributor ; who has contributed ; ~~in the an~~ aggregate ; of more than \$250 ; as of the date of the report shall, in addition to the above-mentioned information, give , the information required in subdivision 2 and in addition the occupation and principal place of business of the contributor.

The report shall include each loan, the name and address of the person making the loan and the date the loan was made. The schedule for a candidate shall list separately those receipts reported to the candidate or his treasurer by any committee, as defined in § 24.1-254.1, and political party committees pursuant to § 24.1-255 setting forth in each instance the source of the information reported:

~~(2)~~ Disbursements C. The report of disbursements shall include all expenditures and give :

~~the~~ 1. The name and address of the person paid ; a ;

2. A brief description of the purpose of the expenditure ; ~~the~~ ;

3. The name of the person contracting for or arranging ~~such~~ the expenditure ; ~~the~~ ;

4. The amount of ~~expenditures~~ the expenditure; and ~~the~~

5. The date of ~~such expenditures~~ the expenditure .

~~The schedule~~ D. Each report for a candidate shall list separately those receipts and expenditures reported to the candidate or his treasurer by any person, political committee, or political party committee ; as defined in § 24.1-254.1, and political party committees pursuant to § 24.1-255 setting 24.2-907 and shall set forth in each instance the source of the information reported.

All ~~completed forms~~ shall be submitted in hand printed, typed or printed format.

E. The report shall list separately all loans and, for each loan, shall give:

1. The date the loan was made;

2. The name and address of the person making the loan and any person who is a co-borrower, guarantor, or endorser of the loan;

3. The amount of the loan;

4. The date and amount of any repayment of the loan; and

5. For any loan or part of a loan which is forgiven by the lender, the amount forgiven listed as both a contribution and loan repayment.

Drafting Note: Existing § 24.1-258 is rearranged for clarity but no substantive changes are made. Present law provisions requiring the forms to be filed "under oath" are revised, and the reports are made subject to comparable "false statement" sanctions set out in § 24.2-1016. The present reporting requirements for loans are stated to reflect current report requirements.

§ 24.2-915. With whom candidates to file reports; responsibility for reporting.—Reports shall be filed by candidates for nomination or election (i) for statewide office, with the State Board, (ii) for the General Assembly, with the State Board and with the electoral board of the locality where the candidate resides, except as otherwise provided in § 24.2-919, and (iii) for any other office, with the electoral board of the locality in which the candidate resides.

It is the joint responsibility of the candidate and his treasurer that the report of a candidate be filed and that the report be in full and accurate detail. Any report to be filed with the State Board may be mailed. If mailed, the report must be postmarked not later than the deadline for filing, except as provided in § 24.2-919 for certain large pre-election contributions received within seventy-two hours of election day.

Drafting Note: Proposed § 24.2-915 is based on subsection C, D, and G of existing § 24.1-257.2. The first sentence of the second paragraph is slightly reworded to make clear that

the candidate and his treasurer are individually and jointly responsible for ensuring that required reports are filed and that the reports are full and accurate, even if only one of them signs and submits the reports. The requirement that shared constitutional office candidates file at the state level is deleted to conform to the pattern for other filings by such candidates and for constitutional office and local office candidates generally. See, also, § 24.2-904. No other substantive changes are made.

~~§ 24.1-267.2~~ 24.2-916 . Report of contributions and expenditures to be filed; penalties Filing schedule for candidates for office generally . A. Filings by committees.—The report A candidate for any office, other than as provided in § 24.2-917 for a local office to be filled at a May general election or in § 24.2-918 for certain special elections, shall file the prescribed reports of contributions and expenditures as prescribed in § 24.1-258 shall be filed by a committee as defined in § 24.1-254.1 with the State Board of Elections in accordance with § 24.1-267.1.

B. Filings by candidates for statewide office. - The reports of contributions and expenditures as prescribed in § 24.1-258 shall be filed by a candidate for nomination or election to the office of Governor, Lieutenant Governor or Attorney General, with the State Board as follows:

1. Beginning For statewide and General Assembly candidates only, 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, not later than January 15 of the following year;

2. Not later than May 1 of the election year complete through April 25;

3. Not later than the eighth day before the primary date complete through the eleventh day before the primary date;

4. Not later than July 15 of the election year complete through July 10;

5. Not later than August 15 of the election year complete through August 10;

6. Not later than October 1 of the election year complete through September 25;

7. Not later than the eighth day before the election date complete through the eleventh day before the election date;

8. Not later than December 1 of the election year complete through November 25;

9. Not later than January 15 following the election date complete through December 31;

10. Not later than July 15 following the election date complete through June 30; and

11. Not later than the following January 15 complete through December 31 and annually thereafter until a final report is filed as provided in subsection F § 24.2-920 .

Any candidate shall also file the report of certain large pre-election contributions required by § 24.2-919, if applicable.

C. Filings by candidates for other offices filled at November general elections. - The reports of contributions and expenditures as prescribed in § 24.1-258 shall be filed (i) by any candidate for nomination or election to the General Assembly, or to a constitutional office shared by two or more counties and cities, with the electoral board of the locality where the candidate resides and the State Board and (ii) by any candidate for local office to be filled by election at a regular November election, with the electoral board of the locality where the candidate resides. Such reports shall be filed as follows:

1. 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, not later than January 15 of the following year. The provisions of this subdivision are applicable to General Assembly candidates only;

2. Not later than May 1 of the election year complete through April 25;

3. Not later than the eighth day before the primary date complete through the eleventh day before the primary date;

4. Not later than July 15 of the election year complete through July 10;

5. Not later than August 15 of the election year ~~complete through August 10;~~
6. Not later than October 1 of the election year ~~complete through September 25;~~
7. Not later than the eighth day before the election date complete through the ~~eleventh~~ day before the election date;
8. Not later than December 1 of the election year complete through November 25;
9. Not later than January 15 following the election date complete through December 31;
10. Not later than July 15 following the election date complete through June 30; and
11. Not later than the following January 15 complete through December 31 and annually thereafter until a final report is filed as provided in subsection F.

D. Filings by § 24.2-917. Filing schedule for candidates for offices filled at May general elections.— ~~The reports of contributions and expenditures as prescribed in § 24.1-258 shall be filed by any~~ Any candidate for election to a local office to be filled by election at a May general election ; with the electoral board of the locality where the candidate resides, shall file the prescribed reports of contributions and expenditures as follows:

1. ~~Not~~ For municipal primary candidates only, not later than the eighth day before the primary date complete through the eleventh day before the primary ; ~~The provisions of this paragraph are applicable to municipal primary candidates only ;~~
2. Not later than the eighth day before the election date complete through the eleventh day before the election date;
3. Not later than June 15 of the election year complete through June 10;
4. Not later than July 15 of the election year complete through July 10; and
5. Not later than the following January 15 complete through December 31 and annually thereafter until a final report is filed as provided in subsection F § 24.2-920 .

Any candidate shall also file the report of certain large pre-election contributions required by § 24.2-919, if applicable.

§ 24.2-918. Filing requirements for special elections.—A. Candidates for nomination or election to an office to be filled by a special election held on a regular election date shall file the prescribed reports of contributions and expenditures which apply to regularly scheduled elections for that office.

B. In the case of a special election held on a date other than a regularly scheduled general election, the candidate shall file as follows:

1. A report not later than the eighth day before the special election date complete through the eleventh day before that date;
2. The reports required by § 24.2-919;
3. A postelection report no later than the thirtieth day after the election and prior to taking office; and
4. A postelection annual report not later than January 15 each year until a final report is filed as provided in § 24.2-920.

E. Filings respecting § 24.2-919. Special report required of certain large pre-election pre-election contributions.—Any single contribution knowingly received or reported of more than \$1,000 for a statewide office and or more than \$500 for any other office, knowingly received or reported by the candidate ; or his treasurer ; on behalf of his candidacy between the eleventh day preceding any election in which the individual is a candidate and the election day , shall be reported in writing within seventy-two hours; however, any such contribution received within the seventy-two hours prior to the election day shall be reported and a report thereof received no later than the day prior to the election. ~~All~~ Statewide and General Assembly candidates shall file all reports required by this subsection ~~shall be filed~~ section with the State Board only, except that reports by any . Any candidate for a constitutional or local office who files under

~~subsection C or D only shall file such reports with the electoral board of the locality where he the candidate resides ; shall be filed with such electoral board only. Any contribution reported pursuant to this subsection section shall also be reported on the first report required by this section article after any election.~~

~~F. § 24.2-920. Final report requirement; transfer of surplus . — A. A final report shall be filed by every candidate which sets forth (i) all receipts and disbursements not previously reported, (ii) an accounting of the retirement of all debts, and (iii) the disposition of all residual surplus funds. The final report shall include a termination statement, signed by the candidate, that all reporting for the nomination or election is complete and final. Once a candidate's final report has been filed, the provisions of subsections B, C and D that set out subsequent filing deadlines for candidate reports shall become inapplicable to that candidate no further report relating to that election shall be required .~~

~~G. Responsibility for reporting. - 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. Any report to be filed with the State Board may be mailed and if mailed must be postmarked not later than the deadline for filing set forth in this section except as provided in subsection E.~~

~~H. Transfer of surplus. - B. For the purpose of filing the reports required by this section article , each general election shall be treated separately. After the filing of a final report, surplus funds may be transferred for use in a succeeding election.~~

~~I. Special elections. - The reports of contributions and expenditures as prescribed in § 24.1-258 shall be filed by candidates for nomination or election to an office to be filled by a special election in compliance with the provisions of this section; however, in the case of an election held on a date other than a regularly scheduled general election, the candidate shall file (i) a report not later than the eighth day before the special election date complete through the eleventh day before that date, (ii) reports required under subsection E of this section, (iii) a post-election report no later than the thirtieth day after the election and prior to taking office, and (iv) post-election annual reports not later than January 15 each year until a final report is filed.~~

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

Drafting Note: Existing § 24.1-257.2 has been extensively revised, rearranged, and divided into several proposed sections for greater clarity and better organization. The substantive schedules and reporting requirements have not been changed. Proposed § 24.2-916 combines subsections A, B, and C of existing § 24.1-257.2 so that all elections, save municipal, are covered in one set of provisions. The only distinction among nonmunicipal elections, preserved in proposed subdivision 1, is that local candidates are not required to file an annual report covering preelection year activity.

Proposed § 24.2-917 makes no substantive change in reporting for municipal elections. Proposed § 24.2-918, based on subsection I of existing § 24.1-257.2, and proposed §§ 24.2-919 and 24.2-920 make no substantive changes. Since existing § 24.1-257.2 is to be divided into several proposed sections, subdivision J is stricken and its provisions regarding violations and penalties become proposed § 24.2-927, applicable to all of Article 4's reporting requirements.

~~§ 24.1-258.1. 24.2-921 . Use of excess contributed funds.—Amounts received by a candidate or his campaign committee as contributions that are in excess of the amount necessary to defray his campaign expenditures may be disposed of only by one or any combination of the following: (i) transferring the excess for use in a succeeding election or to retire the deficit in a preceding election ; (ii) returning the excess to a contributor in an amount not to exceed the contributor's original contribution; (iii) donating the excess to any organization described in § 170 (c) of the Internal Revenue Code; (iv) contributing the excess to one or more candidates or to any political committee which has filed a statement of organization pursuant to § 24.1-254.1 24.2-908 ; (v) contributing the excess to any political party committee; and (vi) defraying any ordinary, nonreimbursed expense related to his elective office. It shall be unlawful for any person to convert any contributed moneys, securities , or like intangible personal property to his personal use.~~

Drafting Note: Subdivision (i) is amended to cover the situation in which a candidate may not have filed a final report from his last campaign because of outstanding debt. He cannot

transfer debt to his next campaign. He should be allowed to use excess funds to retire past campaign debts.

~~§ 24.1-260 24.2-922 . Reports as conditions to qualification for office.—No person shall be permitted to qualify for any office under the laws of this Commonwealth, or , enter upon the duties thereof, or receive any salary or emoluments therefrom until he has filed the statements provided for reports required in subdivisions B 3, 4, 5, 6, 7 and 8 ; C 3, 4, 6, 6, 7, and 8; D of § 24.2-916; subdivisions 1, 2 and 3 ; of § 24.2-917; and I (i) and (iii) of § 24.1-257.2; and no subdivisions B 1 and B 3 of § 24.2-918, as applicable. No officer authorized by the laws of this Commonwealth to issue certificates of election shall issue a certificate of election one to any person determined to be elected to any such office, until copies of such statements required the reports cited above shall have been made and filed under oath, by such person with such officer. Such officer shall not be required, before issue of such certificate, to ascertain whether a statement has been filed with any other officer as required in this article .~~

Drafting Note: The requirement that forms be under oath is revised and shifted to § 24.2-914 at the outset, rather than end, of the article. The last sentence is stricken since the official who issues the certificate either is the official with whom the reports are filed or, if it is the State Board, can determine that the filings have been made.

~~§ 24.1-257.1 24.2-923 . Schedule of reports of contributions and expenditures to be filed by §-24.1-254.1 Filing schedule for persons and political committees.—A. Except as provided in subsection C of this section, committees as defined in §-24.1-254.1 Persons and political committees shall file the prescribed reports of contributions and expenditures as prescribed in §-24.1-258 in accordance with the following schedule with the State Board as follows : (i) eight~~

1. ~~Eight days before the first Tuesday in March ; (ii) eight ;~~
2. ~~Eight days before the first Tuesday in May ; (iii) eight ;~~
3. ~~Eight days before the second Tuesday in June ; and (iv) eight ;~~

4. ~~Eight days before the Tuesday after the first Monday in November ; ; Each such report shall be complete as of the eleventh day before the designated Tuesday and be complete for the entire period not covered by the last preceding filed report or, if it is the first such report filed, be complete for the entire period from the time the committee was organized.~~

~~Any 5. For any contribution given or expenditure made of more than \$1,000 in connection with an election for statewide office, or more than \$500 in connection with an election for any other office, which is given or made after the eleventh day before any Tuesday designated above shall be reported in writing , within seventy-two hours to the State Board of Elections in writing ; however;~~

6. ~~For any such contribution or expenditure given or made within the seventy-two hours prior to the Tuesday shall be reported and a report thereof received by the State Board designated above , no later than the Monday immediately preceding the Tuesday ; ;~~

~~Each committee shall file a report no 7. No later than the thirtieth day after the November general election to be complete through the twenty-fifth day after such the election : ; and~~

~~In addition each committee shall file an 8. An annual report on each January 15 for the preceding calendar year.~~

~~Reports required by subdivisions 1, 2, 3, and 4 of this subsection shall be complete through the eleventh day before the designated Tuesday for the entire period not covered by the last preceding filed report or, if it is the first report filed, for the entire period from the time the committee was organized or contributions were received.~~

B. The reporting requirements shall continue in effect for each committee until a final report is filed which sets forth (i) all receipts and disbursements not previously reported, (ii) an accounting of the retirement of all debts, and (iii) the disposition of all residual funds. The final report shall include a termination statement, signed by an officer of the committee, that all reporting is complete and final.

C. ~~State political party committees shall comply with subsections A and B of this section. District, county, and city political party committees shall be exempt from the requirements of~~

subsections A and B.

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

Drafting Note: Subsection A is set out in the format of the other report provisions. Subsection C of existing § 24.1-257.1 is deleted as unnecessary. State political party committees are included in the definition of political committees in proposed § 24.2-901. Other party committees generally are exempt from filing (§ 24.2-911), but they must report contributions designated for a candidate and are directed by proposed § 24.2-912 to file these reports pursuant to the schedule of this proposed section. The provisions of existing subsection D relating to violations are incorporated in proposed § 24.2-927.

§ 24.2-924. Filing schedule for inaugural fund committees.—An inaugural fund committee shall file the prescribed reports of contributions and expenditures as follows:

1. Not later than March 15 immediately following the inauguration for all contributions and expenditures made prior to the preceding March 1;
2. Not later than July 15 of the inauguration year complete through June 30;
3. Not later than the following January 15 complete through December 31; and
4. Annually thereafter until a final report is filed.

The final report shall set forth (i) all receipts and disbursements not previously reported, (ii) an accounting of the retirement of all debts, and (iii) the disposition of all surplus funds. The final report shall include a termination statement, signed by an officer of the committee, that all reporting is complete and final.

Drafting Note: Proposed § 24.2-924 continues subsection B of existing § 24.1-254.3 without substantive changes.

§ 24.2-925. Use of excess contributed inaugural committee funds.—It shall be unlawful for any person to disburse any funds or receipts of an inaugural fund committee which are in excess of the amount necessary to defray expenditures for inaugural activities other than by one or any combination of the following: (i) transferring the excess to a campaign committee for the inaugurated official in a subsequent election; (ii) returning the excess to a contributor in an amount not to exceed the contributor's original contribution; (iii) donating the excess to any organization described in § 170 (c) of the Internal Revenue Code; (iv) contributing the excess to one or more candidates or to any political committee which has filed a statement of organization pursuant to § 24.2-908; (v) contributing the excess to any political party committee; and (vi) defraying any ordinary, nonreimbursed expense of the inaugurated official related to his elective office.

Drafting Note: Proposed § 24.2-925 continues subsection C of existing § 24.1-254.3 without substantive change.

§ ~~24.1-261~~ 24.2-926 . Custody of reports; inspection and copying.—Every officer or , electoral board, or the State Board, with whom reports are required by any section of this chapter to be filed, shall receive, file and preserve such reports in his office, and shall keep the same them as part of the office's records thereof for at least one year after the final report is filed, except that the State Board of Elections shall be required to retain such reports or through the next general election for the office to which they pertain and then , whichever is later. The State Board shall forward them the reports it preserves to the State Library for preservation under the Virginia Public Records Act (§ 42.1-76 et seq.).

All such reports shall , during the hours for which the office in which they may be filed is open for business, be subject and open to inspection of by any qualified voter ; and copies during the business hours of the office in which they are filed. Copies shall be produced for any qualified voter requesting them who shall pay the reasonable cost of the copies.

Copies of such reports certified by the principal administrative officer in whose office they may be so are kept under the seal of his office shall be evidence in all the courts to the same extent as the original thereof report would be if produced and proved.

All such reports in the office of the State Board of Elections shall be available for copying by any qualified voter, and the Board shall maintain at its office a copying machine to produce copies for any qualified voter requesting them and may charge for such copies based on the reasonable cost thereof.

Drafting Note: Reports filed at local offices are required to be retained and copies produced at cost in conformance with the general approach of the Freedom of Information Act.

§ 24.2-927. *Failure to report or filing of late report a violation.*—Either the failure to file any report or the late filing of any report required by this article shall constitute a violation of this chapter subject to the penalties provided in §§ 24.2-929 and 24.2-930.

Drafting Note: This provision presently is repeated in several existing sections. It is deleted from these individual sections and placed in proposed § 24.2-927 to facilitate reorganization of the chapter.

§ ~~24.1-262~~ 24.2-928 . Reporting of certain violations of chapter .—It shall be the duty of the State Board of Elections to report any violation of §§ ~~24.1-257.1~~ 24.2-912, 24.2-915, 24.2-916, 24.2-917, 24.2-918, 24.2-919, 24.2-920, 24.2-923 and ~~24.1-257.2~~ of this chapter 24.2-924 to the appropriate attorney for the Commonwealth.

It shall be the duty of the electoral board of a county or city to report any violation of § ~~24.1-257.2~~ of this chapter § 24.2-915, 24.2-916, 24.2-917, 24.2-918, 24.2-919, and 24.2-920 relating to an election for any constitutional or local office described in §§ 24.1-86 through 24.1-90, or to a local referendum to the attorney for the Commonwealth for the county or city in which the election occurs.

Drafting Note: Proposed § 24.2-928 lists the proposed sections which contain the reporting requirements now set out in existing §§ 24.1-257.1 and 24.1-257.2. Existing § 24.1-263 does not reference existing § 24.1-257.3, which requires all party committees to report contributions designated for a particular candidate. This omission appears to have been a drafting oversight. It is appropriate that failures to file these reports should be reported, and proposed § 24.2-912 which contains the designated contribution provision is included here. Likewise, inclusion of proposed § 24.2-924 clarifies that the State Board shall report failures of inaugural committees to file timely reports.

Article 5.

Penalties.

§ ~~24.1-262~~ 24.2-929 . Penalties for violations of chapter.— In addition to the civil penalty provisions of § ~~24.1-263.1~~, any Any person who violates, or aids, abets, or participates in the violation of , this chapter , shall be subject to a civil penalty not to exceed fifty dollars or, in the case of a willful violation, shall be guilty of a Class 1 misdemeanor. The attorney for the Commonwealth shall initiate civil proceedings to enforce the civil penalty provided herein. Any civil penalties collected shall be payable to the State Treasurer for deposit to the general fund. The statute of limitations applicable to a violation of this chapter is stated in § 19.2-8.

Drafting Note: Clarifying change only. The first clause is deleted from this general penalty provision and restated, more appropriately, in the special penalty provisions in proposed § 24.2-930.

§ ~~24.1-263.1~~ 24.2-930 . Civil penalties for late and incomplete filings for statewide campaigns.—A. Any In addition to the penalties provided in § 24.2-929, any candidate for Governor, Lieutenant Governor, or Attorney General, and his campaign treasurer, who fail to file any report required in subsection B of § ~~24.1-257.2~~ 24.2-916 in a timely manner or files file an incomplete report may be assessed a civil penalty by the Secretary of the State Board of Elections pursuant to this section .

B. Prior to assessing any a penalty pursuant to this section , the Secretary shall notify the candidate and treasurer in writing that a report has not been filed or that a filed report has not been completed, citing the omissions from the report. No penalty shall be assessed if the report or information required to complete the report is filed within seven days of the date of mailing the written notice.

C. If the report or information required to complete the report is not filed within the seven-day period, the Secretary shall assess against the candidate and treasurer, who shall be jointly and severally severally liable, a civil penalty of \$100 for each day that the violation continues on and after the eighth day following the date of mailing the written notice. The Secretary may grant an additional period for compliance, not to exceed two weeks, for good cause shown and in response to a request filed within the seven-day period. However, no additional period shall be granted for compliance with the requirement under ~~§ 24.1-257.2 B 7 subdivision 7 of § 24.2-916~~ to file a report not later than the eighth day before the election. The Secretary shall then also make available to the public at his office a list of candidates who have failed to file or have filed incomplete reports.

D. If requested by the Secretary, the attorney for the Commonwealth of the City of Richmond shall assist the Secretary in collecting the civil penalty.

E. Any candidate or treasurer aggrieved by the assessment shall have a right to the direct review of the assessment by a court of competent jurisdiction as provided in the Administrative Process Act (§ 9-6.14:1 et seq.). The provisions of the Act shall not apply, however, to the assessment of civil penalties by the Secretary pursuant to this section.

F. Civil penalties collected pursuant to this section shall be payable to the State Treasurer for deposit to the general fund.

Drafting Note: The first clause is transferred from § 24.2-929 to clarify that the special penalty provisions for late or incomplete filings in these statewide elections are in addition to the lesser civil penalty set out in that section and the Class 1 misdemeanor penalty for willful violations of the chapter.

CHAPTER 10.

ELECTION OFFENSES GENERALLY; PENALTIES.

Chapter Drafting Note: Proposed Chapter 10 specifies election law offenses and penalties that are directed at persons who attempt to disrupt the orderly conduct of elections. The source of the proposed chapter is found in existing Chapter 10 of 24.1.

A few changes in style are made so that separate violations within a section are listed under new subsections and subdivisions for easier referencing. Specific felony and misdemeanor penalties were rewritten to reference and to correspond with the classification system used in Title 18.2 which was adopted after the codification of 24.1. Redundant terms have been deleted when they describe the same prohibited conduct.

A new false statement provision is included and replaces the requirements for an administered or self-administered oath. A person who makes a false statement on any statement, form or report required under the title is subject to felony penalties comparable to perjury penalties. Notice of the penalty must clearly appear on any preprinted material requiring the statement.

~~§ 24.1-264~~ 24.2-1000 . Bribery, intimidation, etc., of election officers *officers of election* .—Any person who shall , by bribery, intimidation, or other means in violation of the election laws, willfully ~~hinder~~ *hinders* or ~~prevent~~ *prevents* , or ~~attempt~~ *attempts* to so hinder or prevent, the election officers *officers of election* at any precinct from holding an election at the time and place set apart and designated as a place for holding such election , shall be deemed guilty of a Class 5 felony ; and shall, upon conviction, be punished by confinement in the penitentiary for not less than one year nor more than fifteen years and by a fine not exceeding \$5,000, either or both, or, in the discretion of the jury or the court trying the case without a jury, by confinement in jail not less than one nor more than twelve months and by a fine not exceeding \$1,000, either or both .

Drafting Note: Punishment provisions in proposed § 24.2-1000 are rewritten to reference and correspond with the felony classification system currently used in Title 18.2. A Class 5 felony is punishable by “a term of imprisonment for not less than one year nor more than ten years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than twelve months and a fine of not more than \$ 2,500, either or both.” The Class 5 felony most closely parallels the punishment provision in existing § 24.1-264 which was enacted before the felony classification system was established. The term “election officers” is not currently defined under existing law and therefore is replaced with “officers of election” who are charged with conducting elections.

~~§ 24.1-266~~ 24.2-1001 . Willful neglect or corrupt conduct.— A. If any officer of election, member of an electoral board, messenger, or other person on whom any duty is enjoined by law relative to any election, is guilty of any willful neglect of such his duty, he shall be guilty of a Class 1 misdemeanor . and punished therefor as provided in ~~§-18.2-12~~ or if he

B. If any person listed in subsection A is guilty of any corrupt conduct in the execution of such duties his duty , he shall be guilty of a Class 5 felony and shall, upon conviction, be punished by confinement in the penitentiary for not less than one nor more than fifteen years and by a fine not exceeding \$5,000, either or both or, in the discretion of the jury or the court trying the case without a jury, by a fine not exceeding \$2,500 and by confinement in jail for a period not exceeding twelve months, either or both .

Drafting Note: Punishment provisions in proposed § 24.2-1001 are rewritten to correspond to the felony classification system in Title 18.2. The class of the misdemeanor is specified and is derived from the provisions under existing § 18.2-12 which state that “a misdemeanor for which no punishment or no maximum punishment is prescribed by statute shall be punished as a Class 1 misdemeanor.”

~~§ 24.1-265~~ 24.2-1002 . Disturbance of registrars Interference with registration .—Any person or persons who shall , by threats , intimidation, abuse or force, hinder, delay, or disturb, or attempt to so hinder, delay, or disturb, interferes with or attempts to interfere with (i) any registrar in the discharge of his duties or duty, (ii) any person in the process of registering or applying to register , or (iii) any person going to or leaving a registration location, shall be deemed guilty of a Class 1 misdemeanor.

Drafting Note: Proposed § 24.2-1002 combines provisions from §§ 24.1-265 and 24.1-49.01 which prohibit persons from hindering, delaying, or disturbing registrants and registrars. The term “interference” is used to cover all conduct intended to impede the registration process.

~~§ 24.1-49.01~~ 24.2-1003 . Hindering registration applicants or campaigning Campaigning at registration offices or places.—It shall be unlawful for any locations.—Any person (i) in any manner to hinder or delay a registration applicant in reaching or leaving any registration office or place, or (ii) to give or tender who gives or tenders any campaign materials to, or solicit or attempt solicits or attempts to influence the vote of, any registration applicant person while he is at any registration office or place location, knowing that such person is there for the purpose of registration, shall be guilty of a Class 3 misdemeanor . Nothing herein in this section shall prohibit the distribution of campaign materials outside any building in which a registration activity is being conducted.

Drafting Note: Provisions in clause (i) are covered in existing § 24.1-265 and proposed § 24.2-1002. The focus of proposed § 24.2-1003 is shifted to setting forth the penalties for campaigning at registration locations. Such activity is prohibited because of the undue influence it has on prospective voters and its potential to disrupt nonpartisan registration procedures. The penalty for a violation of this section is reduced to a Class 3 misdemeanor as a more appropriate classification. See, for example, § 24.2-605, use of loudspeakers near polling places on election day.

~~§ 24.1-268~~ 24.2-1004 . Certain voting offenses.—If any Unqualified person who votes. Any person who (i) knowingly votes in any election district in which he does not actually reside, or in which knowing that he is not a registered voter qualified to vote where and when the vote is to be given , or vote more than once in the same election , or procure, and assist, counsel, or advise (ii) procures, assists, or induces another to vote, knowing that such person is not duly qualified to vote where and when the vote is to be given, or (iii) at any time on election day prior to the determination of the vote fraudulently place wrongfully deposits a ballot in the ballot box ; he or casts a vote on any voting equipment, shall be deemed guilty of a Class 1 misdemeanor.

Drafting Note: The section is rewritten to clarify that only a person qualified to vote is entitled to vote. A qualified voter who possesses the constitutional qualifications to vote may not be qualified to vote under certain circumstances in a particular election, e.g., the voter has already cast his ballot for that election. The term “induce” is used to mean any form of persuasion, counseling, or advice given to influence a nonqualified voter to vote. The third clause addresses the situation in which an unqualified voter has not presented himself to vote before the officers of election, but nevertheless manages to deposit a ballot in the ballot box before an official count is taken. Language is added to clause (iii) to acknowledge that ballots may be

wrongfully cast on voting equipment.

~~§ 24.1-271~~ 24.2-1005 . ~~Offenses against Bribery, intimidation, etc., of person receiving ballot.—~~
If any Any person who (i) by threats or , bribery, or other means in violation of the election laws, attempts to influence any person in giving his vote or ballot ; or by such means attempts to deter him from giving his vote or ballot voting ; or (ii) furnishes a ballot to a person who he knows cannot understand the language in which the ballot is printed ; ~~misinforming and misinforms~~ him as to the content of said the ballot with an intent to deceive him and induce him to vote contrary to his desire; or (iii) ~~fraudulently or deceitfully~~ changes a ballot of a person ~~thus preventing such to prevent the person from voting as he desired, he shall be deemed guilty of a Class 1 misdemeanor.~~

This section applies to any election and to any method used by a political party for selection of its nominees and for selection of delegates to its conventions and meetings.

Drafting Note: The section is reworded for clarity and to parallel the undue influence section applicable to officers of election, proposed in § 24.2-1000. Proposed § 24.2-1005 penalties are intended to reach any person who tries to influence, deceive, or bribe a voter. The last sentence makes the section applicable to elections and certain political party proceedings and is derived from existing § 24.1-272. Duplicate provisions in present § 24.1-272 are deleted in proposed § 24.2-1007.

~~§ 24.1-267~~ 24.2-1006 . Advice or assistance in casting ballot.—Except as provided by § ~~24.1-122~~ 24.2-649 , no person shall directly or indirectly advise ; counsel, or assist any elector , by ~~writing, word, gesture or any other means~~ voter as to how he shall vote or cast his ballot after the voter has entered the area within the prohibited area at the polls duly designated as set forth designated in § ~~24.1-101~~ 24.2-604 . Any person violating the provisions of this section shall be ~~deemed~~ guilty of a Class 1 misdemeanor.

Drafting Note: No change in substance. Proposed § 24.2-1006 prohibits undue persuasion once the voter is within 40 feet of the polling place. The term "advise" is synonymous with "counsel" and therefore the later term is deleted.

~~§ 24.1-272~~ 24.2-1007 . Soliciting or giving accepting bribe to influence or procure vote.—No person shall solicit ; request, or demand or accept ; directly or indirectly any money or any thing of value to influence his or another's vote or to be used, or under the pretense of being used, to procure the vote of any person or persons, at in any election. Any person violating the provisions of this section shall be deemed guilty of a Class 1 misdemeanor.

If any person, directly or indirectly, give or offer to a voter in any election any money, goods, or chattels under an agreement, express or implied, that such voter shall give his vote for a particular candidate, or for or against any question voted on at any such election, such person shall be deemed guilty of a Class 1 misdemeanor.

The word "election" as used in this This section shall include applies to any election and to any method used by a political party for selection of its nominees and for selection of delegates to its conventions and meetings.

Drafting Note: Language in the first paragraph has been simplified to state the penalties if a person solicits or accepts a bribe for his vote or to influence a vote of another. Provisions in the second paragraph relating to the person offering a bribe are currently covered in existing § 24.1-271 and proposed § 24.2-1005.

~~§ 24.1-270~~ 24.2-1008 . Selling, giving away , or counterfeiting ballots.— Any member of the electoral board or any designated agent of such board, the printer or his employees who print the official ballots provided for by this chapter, any officer of election, or any other Any person who (i) wrongfully sells or gives to any person, except where it is distinctly provided by this chapter, any an official ballot or copy ; any or a facsimile of or device or plate used to reproduce the same, such ballot or who (ii) counterfeits or attempts to counterfeit the same the official ballot or the seal used upon such official ballots on that ballot, shall be guilty of a Class 5 felony and shall, upon conviction, be punished by confinement in the penitentiary for not less than one nor more than fifteen years and by a fine not exceeding \$5,000, either or both, or, in the discretion of the jury or the court trying the case without a jury, by a fine not exceeding \$2,500 and by confinement in jail for not more than twelve months, either or both .

Drafting Note: Penalty provisions are rewritten to correspond to the classification system used in Title 18.2. The term "wrongfully" as used in the proposed section means any unauthorized use of an official ballot.

~~§ 24.1-273~~ 24.2-1009 . Stealing ; defacing, etc., or tampering with ballot boxes, voting or registration equipment, records or documents.—Any person who shall be guilty of stealing (i) steals ; or of willfully, fraudulently , and wrongfully breaking, destroying, mutilating, defacing, falsifying, or unlawfully moving, securing, or detaining tampers with the whole or any part of any ballot box, voting or registration equipment, records, books, papers, abstracts or any other matters, papers, or documents , which are used in any way used within the registration or election process, or who shall (ii) fraudulently make makes any entry, erasure deletion, or alteration therein to any item listed in (i) , or who shall (iii) fraudulently aid, abet or permit aids, abets, or permits any other person to do so violate the provisions of clause (i) or (ii) , shall be guilty of a Class 5 felony.

Drafting Note: The phrase "tampers with" is used as a collective term to include any act which would alter any election records or equipment thus raising a question of its reliability. The offense of tampering with voting equipment is included in this section from existing § 24.1-275. Although the penalty for tampering with voting equipment is slightly different because the classification of the felony is specified, the penalties prior to and following the revision of Title 24.1 were identical for §§ 24.1-273 and 24.1-275. There is no logical reason why tampering with a ballot box should be penalized differently than tampering with voting equipment since the outcome of an election may be determined by either. Records and documents include any material used within the registration or election process.

~~§ 24.1-275~~ 24.2-1010 . Offenses as to voting machines Unauthorized possession of voting equipment key .—Any unauthorized person found in possession of any voting machine equipment key shall be guilty of a Class 1 misdemeanor.

Any person who willfully tampers with or attempts to tamper with, disarrange, deface, or impair in any manner, or destroy any voting machine at any time or who instigates, aids or abets another person in such act or attempt, shall be guilty of a felony and shall, upon conviction, be punished by confinement in the penitentiary for not less than one nor more than fifteen years and by a fine not exceeding \$5,000, either or both, or, in the discretion of the jury or the court trying the case without a jury, by a fine not exceeding \$2,500 and by confinement in jail for a period not exceeding twelve months, either or both.

Drafting Note: Proposed § 24.2-1010 is revised to cover only the unlawful possession of a voting equipment key. Provisions relating to the willful tampering with voting equipment are moved to proposed § 24.2-1009 covering tampering with election material generally.

~~§ 24.1-269~~ 24.2-1011 . Ballot not to be carried away.—It shall be unlawful for any person to carry the official ballot ; furnished him by the officer officers of the election further than the voting booth, and should he, after inspecting such receiving the ballot, conclude not to vote, he shall immediately return such the ballot to the officers of election . If any Any person carry who (i) carries an official ballot or copy thereof beyond or away from the voting booth, or away from the booth, except to the officers of election, or vote (ii) votes any ballot except such as shall be the ballot received by him from the officers of election, he shall be deemed guilty of a Class 1 misdemeanor.

Drafting Note: No change in substance. The provisions of this section apply to ballots provided by the officers of election on election day and not to absentee ballots provided in accordance with Chapter 7 (24.2-700 et seq.) The class of the misdemeanor is specified in accordance with existing §§ 18.2-12 and 24.1-280.

~~§ 24.1-274~~ 24.2-1012 . Offenses as to absent voters.—Any person who knowingly aids or abets or attempts to aid or abet a violation of the election laws in connection with any vote cast, or to be cast, under the provisions concerning absent voters absentee voting procedures prescribed in Chapter 7 (§ 24.2-700 et seq.) shall ; upon conviction, be sentenced to the penitentiary for not less than one nor more than five years be guilty of a Class 5 felony .

Any person attempting to vote by fraudulently signing the name of a regularly qualified voter shall be guilty of forgery and shall be guilty of a Class 4 felony .

Any public official who knowingly violates any of the provisions of the law concerning absent voters ; and thereby aids in any way the illegal casting, or attempting to cast a vote, or who ~~shall connive~~ *connives* to nullify any provisions of this chapter in order that fraud may be perpetrated, shall forever be disqualified from holding office in the Commonwealth ; and shall forever be disqualified from exercising the right of franchise.

Drafting Note: Existing § 24.2-1012 sets forth penalties for persons perpetrating a fraud in connection with absentee voting. Language has been simplified to clarify this point. Punishment provisions are specified for forgery and correspond to the felony classification system used in Title 18.2. Forgery under that title is treated as a Class 4 felony and punished by a term of imprisonment of not less than two years nor more than 10 years and, if the court decides, a fine of \$100,000.

~~§ 24.1-276~~ 24.2-1013 . Publications not to receive compensation for advocating candidacy; penalties.—A. It shall be unlawful for any owner, proprietor, editor, manager, officer, clerk, agent, reporter, or employee of any newspaper, magazine, or periodical printed or published in this Commonwealth to ~~take, accept or receive or agree to take, accept or receive, for himself or any other person, firm or corporation, either by himself or any other person or persons, firm or corporation another~~ , any money or other valuable consideration for such newspaper, magazine, or other periodical supporting or advocating the election or defeat of any candidate ~~or candidates at any election~~ . But nothing in this section shall prevent any person ~~or persons~~ , firm , or corporation engaged in the publication of any newspaper, magazine or periodical from receiving from any person *compensation for publication printing* and publishing any matter, article or articles advocating the election or defeat of any candidate ~~or candidates and receiving from such person a compensation therefor~~ , if such articles so published ~~or printed have placed at the beginning thereof in plain type in black face Roman capitals in a conspicuous place the a statement , "Paid Advertisement" and comply , appears in plain type in boldface Roman capitals in a conspicuous place at the beginning of the matter or article and the matter or article otherwise complies with the provisions of § 24.1-277~~ 24.2-1014 .

B. Any such owner, proprietor, editor, manager, officer, clerk, agent, reporter, or employee violating the provisions of subsection A shall be subject to a civil penalty not to exceed fifty dollars; and, in the case of a willful violation, he shall be guilty of a Class 1 misdemeanor. The procedure to enforce the civil penalty provided ~~herein in this section~~ shall be as stated in § ~~24.1-262~~ 24.2-929 .

Drafting Note: No change in substance.

~~§ 24.1-277~~ 24.2-1014 . ~~Writings concerning candidates for office to identify person responsible therefor~~ *Identifying persons responsible for campaign writing* ; penalties.—A. As used in this section "writing" includes any ~~written, printed or otherwise reproduced statement or advertisement of any class or description~~ , but shall not include editorial comment or news coverage which is sponsored and financed by the news medium publishing or broadcasting it nor writings authorized by the candidate on novelties including, but not limited to, pens, pencils , and buttons to be attached to wearing apparel.

B. It shall be unlawful for any person to cause any writing other than a television or radio broadcast to appear concerning any potential nominee or candidate, ~~any candidate for nomination or any candidate for any office elective by the qualified voters~~ or concerning any question ~~or referendum~~ to be submitted to the electors ~~voters~~ unless such writing plainly identifies the person responsible ~~therefor and carries for it~~ . *The writing shall carry the statement "authorized by" and ; as a minimum, contain the following information to complete the statement as follows :*

1. The name of the candidate if the writing is authorized by the candidate or his campaign committee;

2. The name of the political party committee if the writing is authorized by that committee; or

3. If authorized by any person other than the candidate, his campaign committee, or a political party committee, either:

a. ~~in~~ *In* the case of a committee that has filed a statement of organization under § ~~24.1-254.1~~ 24.2-908 , the full name of the committee and a registration number provided by the State Board of Elections , or

b. ~~in~~ In any other case, the full name and residence address of the individual responsible for the writing.

C. It shall be unlawful for any person to use a false or fictitious name or address on any such writing described in subsection B.

D. It shall be unlawful for any person to cause any radio or television statement to appear unless the advertisement or statement contains information which plainly identifies the candidate, committee, or individual responsible ~~therefor~~ for it .

~~E. It shall be unlawful for any person to use a false or fictitious name or address on any such writing described in the preceding subsection.~~

~~D. E.~~ Any person violating any provision of this section shall be subject to a civil penalty not to exceed fifty dollars; and, in the case of a willful violation, he shall be guilty of a Class 1 misdemeanor. The procedure to enforce the civil penalty provided ~~herein in this section~~ shall be as stated in § ~~24.1-262~~ 24.2-929 . ~~Violation~~ The violation of this section shall not ; ~~however,~~ ~~require~~ or result in the voiding of ~~void~~ any election.

Drafting Note: No change in substance. Only stylistic changes are incorporated.

§ ~~24.1-278~~ 24.2-1015 . Conspiracy against rights of citizens under this title.—If two or more persons conspire to injure, oppress, threaten, intimidate, prevent, or hinder any citizen of this Commonwealth in the free exercise or enjoyment of any right or privilege secured to him by the provisions of this title, or because of his having so exercised ~~the same such right~~ , they shall, upon conviction, be punished by confinement in the penitentiary for not less than one nor more than ten years and by a fine not exceeding \$5,000, either or both, or, in the discretion of the jury or the court trying the case without a jury, by a fine not exceeding \$2,500 and by ~~confinement in jail for a period not exceeding twelve months,~~ either or both shall be guilty of a Class 5 felony .

Drafting Note: No change in substance. The punishment provision is revised and specifies the felony class.

§ ~~24.1-279~~ 24.2-1016 . Perjury False statements; penalties .—Any willfully willfully false ; ~~fraudulent, or misleading material statement or entry made by any person in any statement or account under oath , form, or report required by this title, shall constitute the crime of perjury,~~ election fraud and be punishable as such according to the laws of this Commonwealth a Class 5 felony . Any preprinted statement, form, or report shall include a statement of such unlawful conduct and the penalty provided in this section.

Drafting Note: A major revision appearing throughout the proposed title eliminates the requirement for an administered oath, which subjects a person to perjury penalties if the oath is violated and addresses inconsistencies among present law provisions which include both administered oaths and a variety of “sworn” statements not requiring an administered oath. This revision establishes a uniform approach to election fraud involving false information on registration, election, and campaign finance statements.

In 1992, the General Assembly enacted an amendment to existing § 24.1-48 to provide that a registration applicant self-administers the required oath by signing the application and becomes subject to perjury penalties on the basis of the self-administered oath. The rationale for adopting a self-administered oath was to address two problems—the burden of administering oaths at busy motor voter locations and the need for the person administering the oath to testify at a trial scheduled years after the oath was administered. While the Code Commission agreed that an administered oath presented these problems and should be eliminated from provisions of the proposed title, they were concerned with creating a fictitious oath carrying perjury penalties. The criminal laws generally invoke perjury penalties only when there has been a false swearing and the Commission agreed that this understanding of perjury should be preserved.

The false statement offense in proposed § 24.2-1016 serves as a substitute for the oath and perjury provisions to ensure that the person who provides false information is subject to criminal prosecution. The penalty for making a false statement parallels current perjury penalties.

The last sentence is added to ensure proper notice on preprinted statements, forms, and reports of the unlawfulness of providing material false information and the penalties of this section.

§ ~~24.1-280~~ 24.2-1017 . Penalties when not specifically provided elsewhere.—Any violation of the ~~provisions~~ of conduct made unlawful by this title, for which no punishment has been otherwise provided, shall be deemed a Class 1 misdemeanor.

Drafting Note: Language is added to clarify that proposed § 24.2-1017 only applies to provisions in this title which state that an activity is unlawful but fail to specify any punishment for the offense. With this clarification, all persons will have adequate notice of what conduct is unlawful and what punishment is to be expected.

§ ~~24.1-281~~ 24.2-1018 . Witnesses giving evidence to be immune from prosecution *Immunity of witnesses* .—No witness ~~called by the court or attorney for the Commonwealth and required to give and~~ giving evidence for the prosecution, either before a grand jury or in a ~~criminal proceeding in a~~ the court of record in compliance with a subpoena issued by direction of such grand jury or attorney for the Commonwealth, respectively, under the sections of this chapter in any prosecution under this title, shall ever be proceeded against for any offense made penal by any of such provisions, or any of the other election laws of this Commonwealth, the provisions of this title and committed by him at or in connection with the same election, primary, or convention events germane to the matter being prosecuted; but such witness shall be compelled to testify, and for refusing to answer questions, he may be punished for contempt by the court .

Drafting Note: Proposed § 24.2-1018 parallels § 18.2-445 and other sections in Title 18.2 which give immunity to witnesses but compel them to testify or be guilty of contempt of court. The immunity is provided for offenses committed in connection with the events pertinent to the prosecution. The language under present law was not clear if an offense committed at the time of registration was included; proposed § 24.2-1018 is worded so that registration activities are covered.

§ ~~24.1-282~~ 24.2-1019 . Complaints and allegations concerning election law offenses.—Any complaint or allegation concerning an alleged violation of the provisions unlawful conduct under of this title shall be filed with the attorney for the Commonwealth of the county or city in which the alleged violation occurred.

Drafting Note: No change in substance.

TITLE 15.1.

General Drafting Note: The seven sections which follow include one provision transferred from Title 24.1 (existing § 24.1-165.2 shown as § 15.1-760.1) and six sections in Title 15.1 which are revised as a result of the Commission's review of the provisions in Title 24.1 on filling vacancies in office.

§ 15.1-676. Election of members of county board; filling vacancies.- (a) A. Notwithstanding the provisions of § ~~15.1-674~~ and 15.1-694 ; if , in any county operating as of December 1, 1993, under the county manager plan provided for in this chapter, a majority of the qualified voters voting on the question submitted in the election held as provided in subsection (e) of this section shall vote in favor of the election of the members of the county board and the filling of vacancies on the board as hereinafter provided in this section, then upon the entry of an order by the circuit court of the county setting forth the results of such election, the members of the county board shall thereafter be elected and vacancies on the board shall be filled as provided in this section.

(b) Notwithstanding the provisions of subsection (a), if a majority of the qualified voters in such election vote in favor of the election of the members of the county board as provided by subsection (f) hereof, then upon the entry of an order by the circuit court of the county setting forth the results of the election, the members of the county board shall thereafter be elected as provided in subsection (f) hereof.

(e) Each of such members shall take office on the first day of January after his election and shall hold office until his successor is elected and qualified. B. Two members of the county board shall be elected at the November 1995 election to succeed the members whose terms are expiring, and one member each shall be elected at the 1994, 1996, and 1997 November elections to succeed the members whose terms respectively are expiring. Thereafter at each regular November election there shall be elected one or more members of the county board to succeed the member or members whose terms expire on or before the first day of January next succeeding such election ; the . The members so elected shall be elected for terms of four years

each and , shall take office on the first day of January next succeeding their election , and shall hold office until their successors are elected and qualify .

(d) C. When any vacancy shall occur in the membership of the county board the judge of the circuit court of the county shall call a special election for the remainder of the unexpired term to be held not less than forty-five days and not more than sixty days thereafter; provided ; however, that if any vacancy occurs within one hundred eighty days before the expiration of a term of office, such the vacancy shall be filled by appointment by a majority vote of the remaining members of such the board within thirty days of the occurrence of such the vacancy after holding a public hearing with respect to such the appointment. The appointment shall be for the duration of the unexpired term. Notwithstanding the provisions of § 24.1-76 and any writs of election issued pursuant thereto, the county board, by majority vote prior to November 4, 1976, shall appoint a person to fill the remainder of the term of office of the county board member whose term would have regularly expired on December 31, 1975, which remainder is the period from November 5, 1975, through December 31, 1975. The person appointed by the judge of the circuit court to fill the vacancy in said office until the general election on November 4, 1976, or until his successor qualifies to serve in said office, shall continue to serve until the person appointed by the county board qualifies to serve in said office. The failure of the board to appoint a person to fill any such vacancy within the time specified shall not be construed to affect the validity of the actions of the board taken during such vacancy.

(e) The election to determine whether the members of the county board shall be elected as provided in paragraph (f) of this section shall be called and held as follows:

If a petition signed by two hundred or more qualified voters in any such county shall on or before the first day of April, 1968, be filed with the circuit court of the county, asking that a referendum be held on such question, the court or judge shall, on or before the first day of May, 1968, by an order entered of record, require the election officials of the county at the time prescribed by law for the next primary election to be held in July, 1968, to open a poll and take the sense of the qualified voters of the county on the questions as herein provided. The clerk of the county shall cause a notice of such election to be published in some newspaper, published or having a general circulation in the county, once a week for three consecutive weeks, and shall post a copy of such notice in the courthouse of the said county. The regular election officials of the county, at the time designated therein, shall open the polls at the various voting places in the county and conduct the election in such manner as is provided by law for other elections, insofar as the same is applicable. The election shall be by separate ballot, which shall be prepared by the electoral board and distributed to the various election precincts as in other elections. The ballots to be used shall be printed as follows:

Shall the members of the county board be elected biennially for four-year terms, as provided in paragraph (f) of § 15.1-676, as amended, of the Code of Virginia?

Yes

No

The election shall in all respects be held as provided in § 24.1-165.

(f) If the result of the election held as provided in paragraph (e) hereof be for the election of the members of the county board as provided in this paragraph then the provisions of this paragraph shall supersede all other provisions of this section and the members of the county board shall be elected as hereinafter set forth.

(1) The successors to the members whose terms expire in 1958 shall be elected for terms of two years; thereafter all such members shall be elected for four-year terms in the November election of the years in which the terms expire; the terms of members so elected shall begin on January 1 of the year following their election.

(2) Successors to the members whose terms expire in 1959 and 1961 shall be elected for terms of three years at the November election in such years, respectively; thereafter all such members shall be elected for four-year terms in the November election of the years in which the terms expire; the terms of members so elected shall begin on the first day of January following their election.

(3) Successors to the members whose terms expire in 1960 shall be elected for terms of four years; thereafter all such members shall be elected for four-year terms in the November election of the years in which in board of supervisors, the terms expire; the terms of members so elected shall begin on January 1 of the year following their election.

~~(4) Vacancies shall be filled as provided by paragraph (d) hereof.~~

Drafting Note: This section applies to the county manager plan of government (Arlington County). No change is proposed in the method by which Arlington fills board vacancies, although the provisions are at odds with existing general law and the procedure in proposed Title 24.2.

The stricken language addressed a specific transition episode and is no longer needed. This section initially was enacted in 1938 to enable Arlington to adopt by referendum the election system under which it still operates. A supervisor election is held each year for one board member, and on the fourth year a second member is elected. Repeatedly between 1938 and 1958 the section was amended to allow a referendum to change to staggered four year terms as provided in subsections (e) and (f) of the existing section. Arlington has never done so and apparently there is no interest in doing so since the authorization has not been updated since 1958. The result of replacing the original referendum proposal (the annual supervisor election) with the staggered term option has made subsections (a) and (b) confusing, if not meaningless, and buried in this section the vacancy provisions which apply to the board today. The proposed amendments to this section will make it an accurate statement of the practice which Arlington long has followed.

It is highly unlikely that any other county would adopt the county manager plan of government since only Arlington meets one qualification criterion (less than 60 square miles of high land) and the counties likely to meet the other criterion (population density of 500 or more per square mile) operate under other optional forms or charters.

§ 15.1-700. Board of county supervisors; election; terms; chairman; vacancies.—(a) The powers and duties of the county as a body politic and corporate shall be vested in a board of county supervisors.

(b) The board of county supervisors shall consist of one member elected from the county at large by the qualified voters of the county and one member from each magisterial district in the county elected by the qualified voters of such magisterial district. The members of the board shall be elected at the same time and for the same term as provided by general law for the election of boards of supervisors of counties. The board shall elect its chairman from its membership.

(c) Members of the board of supervisors of the county in office immediately prior to the day upon which the county board form becomes effective in the county shall be and, unless sooner removed, continue as members of the board of county supervisors until the expiration of their respective terms and until their successors are qualified.

(d) If the change in the form of county organization and government becomes effective on the first day of January next succeeding the regular election of members of the board of supervisors in the county, such members-elect shall qualify and, as soon as possible after the county board form becomes effective in the county, succeed the then incumbents as members of the board of county supervisors and as such continue until the expiration of their respective terms and until their successors are qualified.

(e) At the regular November election next succeeding the approval of the county board form, one member of the board shall be elected from the county at large by the qualified voters of the county; his term of office shall begin on the first day of January next succeeding such election and shall run for a term coincident with that of the other members of the board of county supervisors. Pending his election and taking office, the office of member from the county at large shall remain vacant.

(f) Except as otherwise provided in paragraph (e) of this section, ~~when any vacancy shall occur in the membership of the board of county supervisors ; the judge of the circuit court of the county shall issue a writ of election to fill such vacancy. Such election shall be held at the next regular November election or, if the vacancy occurs within 120 days prior to such election, the second ensuing general election. The person so elected shall hold office for the unexpired term of the member whom such person is elected to succeed. The judge may make a temporary appointment to fill such vacancy until the people fill the same by election as herein provided shall be filled pursuant to Article 6 (§ 24.2-225 et seq.) of Chapter 2 of Title 24.2 .~~

Drafting Note: This section applies to the county board form of government (Scott, Carroll, and Russell Counties). This section paralleled Title 24.1 vacancy provisions when it was enacted, but failed to pick up the change in Title 24.1 in 1975 which allowed the board of supervisors rather than the circuit court to make interim appointments. The proposed amendment conforms

to the existing Title 24.1 and proposed Title 24.2 provisions.

Title 15.1 sections which address vacancies under other optional forms need only to have Title 24.1 cross references changed to proposed Title 24.2 provisions. The urban county executive (Fairfax) and county executive (Albemarle and Prince William) forms, like the county manager plan (Arlington), differ from proposed Title 24.2 provisions by allowing the court to order a quick special election.

§ 15.1-760.1. Special elections; changes in form of government. In any case in which the voters of a county are authorized to petition for a referendum on changing the county's form of government and organization in accordance with § 15.1-757, the number of signatures of qualified voters required on the petition shall be equal to or greater than ten percent of the number of voters registered in the county on January 1 of the year in which the petition is filed.

Any referendum concerning such change in the county's form of government and organization shall be ordered to be held on the next November general election date at least sixty days after the date of the order.

Drafting Note: This provision is transferred without substantive change from Title 24.1 and existing § 24.1-165.2 and located with related provisions on changing the form of government of counties with the urban county executive form of government. As enacted in 1990, § 24.1-165.2 applied only to counties with more than 400,000 population, i.e., Fairfax County. Fairfax is the only county with the urban executive form of government.

§ 15.1-808. Vacancies in council.—When any vacancy shall occur occurs in the council of a city having one branch, or in either branch or for any reason, whether when a member-elect fails to take office or during a member's term, the vacancy shall be filled pursuant to Article 6 (§ 24.2-225 et seq.) of Chapter 2 of Title 24.2. In the event the vacancy occurs in the council of any city having two branches, by death, resignation, removal from the ward, failure to qualify or from any other cause, the council, or the branch, as the case may be, in which such the vacancy occurs, shall elect a qualified person to fill the vacancy for the unexpired term, except that if there should be vacancies of a majority of the council, or either branch thereof, for any reason, then the circuit court, or the judge thereof in vacation, or the corporation court of the city, or the judge thereof in vacation, shall pending the next ensuing general election or, if the vacancy occurs within 120 days prior to such election, pending the second ensuing general election, fill such vacancies of such members who have died, resigned or removed from the ward, from the persons qualified to hold such offices make the interim appointment of a member as provided in § 24.2-228.

Drafting Note: Existing § 15.1-808 is antiquated and has not been substantively amended in almost seventy-five years. In all likelihood, its provisions have been superseded by individual charter provisions in all cities. Certainly no city today is governed by a bicameral council. Nevertheless, a revision of the entire chapter on city and town government in Title 15.1 is outside the scope of this revision of Title 24.1. The proposed change will eliminate the inconsistency which otherwise would exist between this section and the provisions of proposed Title 24.2. Article 6 of proposed Title 24.2 allows council to make an interim appointment only until the vacancy is filled by special election, rather than filling the vacancy for the unexpired term as provided in § 15.1-808.

§ 15.1-816. Filling vacancy in office of mayor.— Within ten days after such death, resignation or removal of the mayor, the corporation court of the city shall order a special election which shall be held within thirty days after such order is entered, to fill the unexpired term of such mayor; provided, the unexpired part of the term remaining after such election is as much as one year. But nothing in this section shall be construed to alter or repeal the provisions of the charter of any city regulating the filling of any vacancy in the office of the mayor. When a vacancy occurs in the office of mayor for any reason, whether when the mayor-elect fails to take office or during the mayor's term, the vacancy shall be filled pursuant to Article 6 (§ 24.2-225 et seq.) of Chapter 2 of Title 24.2.

Drafting Note: Section 15.1-815 is an antiquated section whose provisions are superceded by individual city charters. The mayor, under the structure of city government set forth in Title 15.1, is a distinctly separate office and is not a member of the governing body. Rewriting of this section is proposed simply to avoid any confusion between it and proposed Title 24.2 vacancy provisions. The practical changes are that an election to fill the vacancy will be delayed until the next regular May election, rather than being held as soon as possible, and that council will

make an interim appointment to the office.

§ 15.1-830. Council of town judge of election, etc., of members; may punish or expel members; vacancies.—The council of a town shall judge of the election, qualification, and returns of its members, may fine them for disorderly behavior and, with the concurrence of two-thirds, expel a member. ~~If any person returned be adjudged disqualified or be expelled, a new election to fill the vacancy shall be held at the same place, on such day as the council may prescribe; except that when there shall be vacancies in the majority of the council the circuit court or the judge thereof in vacation, shall fill such vacancies. Any vacancy occurring otherwise during the term for which any of such persons have been elected may be filled by the council from the electors of the town. A vacancy in the office of mayor may be filled by the council from the electors of the town. In the event a vacancy occurs on the council or in the office of mayor, whether occurring when an officer-elect fails to take office or during the person's term of office, the vacancy shall be filled pursuant to Article 6 (§ 24.2-225 et seq.) of Chapter 2 of Title 24.2; provided, if the vacancy on council occurs in any town, regardless of population, because council has adjudged a person disqualified or has expelled a member, the person appointed by council to fill the vacancy shall serve only until the vacancy can be filled for the remainder of the term in a special election pursuant to § 24.2-226.~~

Drafting Note: Section 15.1-830 also is an antiquated section whose applicability today is unclear. Title 15.1 provisions for town government, as found in Chapter 16 of the title, are incomplete. Nowhere does it specify the election and terms of town council, for example, nor does it spell out the powers of the mayor.

The proposed revisions in this section are to conform it for most vacancies to proposed Title 24.2 vacancy provisions. Proposed § 24.2-228 provides that in town of 3,500 or more the council fills vacancies by interim appointment until the vacancy can be filled by special election. The special election to fill the remainder of the term thus is a new requirement for these larger towns. For all other towns there is no change, since council fills the vacancy for the unexpired term under § 15.1-830 and proposed § 24.2-228.

The intent of existing § 15.1-830 clearly is to prevent council from abusing its authority to disqualify or expel a member, hence the requirement for a special election in those two instances. This intent is retained in the revision by the proviso included in the proposed second sentence, which applies to all towns.

§ 15.1-933. How vacancies in council filled.—If any vacancy occur in the membership of any council herein provided for, *whether because a member-elect fails to take office or during the member's term of office*, ~~the remaining members shall fill the vacancy for the unexpired term shall be filled pursuant to Article 6 (§ 24.2-225 et seq.) of Chapter 2 of Title 24.2 .~~

Drafting Note: This section is revised so that there is no conflict with proposed Title 24.2. Proposed Title 24.2 allows council to fill the vacancy only until a special election is held to fill it for the unexpired term, except in the case of towns of less than 3,500. This section is found in Chapter 19 of Title 15.1, the chapter which sets forth the councilmanic, modified commission, and manager options for cities and towns. Charter provisions commonly supercede this section, but some charters provide only that vacancies will be filled pursuant to general law. The proposed amendment of § 15.1-933 will affect these cities and larger towns.

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