

# State of Virginia Election Law

## Excerpts relating to selection of delegates to a party's national convention

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### § 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.), 9 (§ 24.2-900 et seq.), and 9.2 (§ 24.2-941 et seq.) of this title, "candidate" shall include any write-in candidate. However, no write-in candidate who has received less than 15 percent of the votes cast for the office shall be eligible to initiate an election contest pursuant to Article 2 (§ 24.2-803 et seq.) of Chapter 8 of this title.

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

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

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

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

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

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

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

"Party" or "political party" means an organization of citizens of the Commonwealth which, at either of the two preceding statewide general elections, received at least 10 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) 18 years of age, (ii) a resident of the Commonwealth and of the precinct in which he offers to vote, and (iii) registered to vote. No person who has been convicted of a felony shall be a qualified voter unless his civil rights have been restored by the Governor or other appropriate authority. No person adjudicated incapacitated shall be a qualified voter unless his capacity has been reestablished as provided by law.

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

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

"Registered voter" means any person who is maintained on the Virginia voter registration system. All registered voters shall be maintained on the Virginia voter registration system with active status unless assigned to inactive status by a general registrar in accordance with Chapter 4 (§ 24.2-400 et seq.) of this title. For purposes of applying the precinct size requirements of § 24.2-307, calculating election machine requirements pursuant to Article 3 (§ 24.2-625 et seq.) of Chapter 6 of this title, mailing notices of local election district, precinct or polling place changes as required by subdivision 13 of § 24.2-114 and § 24.2-306, and determining the number of signatures required for candidate and voter petitions, "registered voter" shall include only persons maintained on the Virginia voter registration system with active status.

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

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

"Special election" means any election that 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 that is maintained as provided in Article 2 (§ 24.2-404 et seq.) of Chapter 4 of this title.

(Code 1950, §§ 24-17, 24-18, 24-18.2, 24-22, 24-23, 24-44, 24-136, 24-137, 24-172, 24-346; 1956, c. 378; 1963, Ex. Sess., c. 2; 1964, c. 592; 1970, c. 462, §§ 24.1-1, 24.1-41, 24.1-42, 24.1-93; 1971, Ex. Sess., cc. 119, 205, 265; 1972, c. 620; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1977, cc. 30, 490; 1978, c. 778; 1982, c. 650; 1983, c. 461; 1989, c. 322; 1991, 1st Sp. Sess., c. 12; 1993, c. 641; 1996, cc. 72, 73; 1997, c. 801; 1998, c. 866; 2001, c. 719; 2002, c. 487; 2003, c. 1015.)

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§ 24.2-203. Convening of electors; filling vacancies; how electors required to vote.

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

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

(Code 1950, §§ 24-8, 24-9, 24-290.6; 1962, c. 536; 1970, c. 462, §§ 24.1-9, 24.1-162; 1993, c. 641; 2001, c. 630.)

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§ 24.2-543. How other groups may submit names of electors; oaths of electors.

A group of qualified voters, not constituting a political party as defined in § 24.2-101, may have the names of electors selected by them, including one elector residing in each congressional district and two from the Commonwealth at large, printed upon the official ballot to be used in the election of electors for President and Vice President by filing a petition pursuant to this section. The petition shall be filed with the State Board by noon of the seventy-fourth day before the presidential election. The petition shall be signed by at least 10,000 qualified voters and include signatures of at least 400 qualified voters from each congressional district. The petition shall be signed by petitioners on and after January 1 of the year of the presidential election only and contain the residence address of each petitioner. The signature of each petitioner shall be witnessed by a person who is a qualified voter, or qualified to register to vote, and whose affidavit to that effect appears on each page of the petition. The petition shall state the names of the electors selected by the petitioners, the party name under which they desire the named electors to be listed on the ballot, and the names of the candidates for President and Vice President for whom the electors are required to vote in the Electoral College. The persons filing the petition shall file with it a copy of a subscribed and notarized oath by each elector stating that he will, if elected, cast his ballot for the candidates for President and Vice President named in the petition, or as the party may direct in the event of death, withdrawal or disqualification of the party nominee. In order to utilize a selected party name on the ballot, the petitioners shall have had a state central committee composed of registered voters from each congressional district of the Commonwealth, a party plan and bylaws, and a duly designated chairman and secretary in existence and holding office for at least six months prior to filing the petition. The State Board may require proof that the petitioners meet these requirements before permitting use of a party name on the ballot. The party name shall not be identical with or substantially similar to the name of any political party qualifying under § 24.2-101 and then in existence.

In the event of the death or withdrawal of a candidate for President or Vice President qualified to appear on the ballot by party name, that party may substitute the name of a different candidate before the State Board certifies to the county and city electoral boards the form of the official ballots.

In the event that a group of qualified voters meets the requirements set forth in this section except that they cannot utilize a party name, the electors selected and the candidates for President and Vice President shall be identified and designated as "Independent" on the ballot. Substitution of a different candidate for Vice President may be made by the candidate for President before the State Board certifies to the county and city electoral boards the form of the official ballot.

(Code 1950, § 24-290.3; 1952, c. 330; 1964, c. 542; 1968, c. 284; 1970, c. 462, § 24.1-159; 1982, c. 650; 1984, c. 480; 1993, c. 641; 1994, c. 149; 1998, cc. 152, 246; 2000, cc. 232, 252; 2001, c. 630; 2003, c. 477.)

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§ 24.2-510. Deadlines for parties to nominate by methods other than primary.

For any office, nominations by political parties by methods other than a primary shall be made and completed in the manner prescribed by law according to the following schedule:

1. For a general election in November, by 7:00 p.m. on the second Tuesday in June;
2. For a general election in May, by 7:00 p.m. on the first Tuesday in March;
3. For a special election held at the same time as a November general election, either (i) at least seventy-four days before the election or (ii) if the special election is held at the second November election after the vacancy occurred, by 7:00 p.m. on the second Tuesday in June before that November election;
4. For a special election held at the same time as a May general election, by 7:00 p.m. on the first Tuesday in March; or
5. For a special election held at a time other than a general election, (i) at least thirty days before the election or (ii) within five days of any writ of election or order calling a special election to be held less than thirty-five days after the issuance of the writ or order.

In the case of all general elections a party shall nominate its candidate for any office by a nonprimary method only within the thirty-two days immediately preceding the primary date established for nominating candidates for the office in question. This limitation shall have no effect, however, on nominations for special elections or pursuant to § 24.2-539.

(Code 1950, §§ 24-130, 24-131, 24-134.1, 24-135, 24-363, 24-364; 1958, c. 605; 1960, c. 427; 1962, c. 536; 1964, cc. 540, 541; 1970, c. 462, §§ 24.1-166, 24.1-172; 1971, Ex. Sess., cc. 119, 247; 1972, c. 620; 1973, c. 30; 1974, c. 428; 1975, c. 515; 1976, c. 616; 1978, c. 778; 1981, c. 425; 1983, c. 461; 1984, c. 480; 1991, c. 137; 1993, c. 641.)

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§ 24.2-545. Presidential primary.

A. The duly constituted authorities of the state political party shall have the right to determine the method by which the state party will select its delegates to the national convention to choose the party's nominees for President and Vice President of the United States including a presidential primary or another method determined by the party. The state chairman shall notify the State Board of the party's determination at least 90 days before the primary date. If the party has determined that it will hold a presidential primary, each registered voter of the Commonwealth shall be given an opportunity to participate in the presidential primary of the political party, as defined in § 24.2-101, subject to requirements determined by the political party for participation in its presidential primary. The requirements may include, but shall not be limited to, the signing of a pledge by the voter of his

intention to support the party's candidate when offering to vote in the primary. The requirements applicable to a party's primary shall be determined at least 90 days prior to the primary date and certified to, and approved by, the State Board.

B. Any person seeking the nomination of the national political party for the office of President of the United States, or any group organized in this Commonwealth on behalf of, and with the consent of such person, may file with the State Board petitions signed by at least 10,000 qualified voters, including at least 400 qualified voters from each congressional district in the Commonwealth, who attest that they intend to participate in the primary of the same political party as the candidate for whom the petitions are filed. Such petitions shall be filed with the State Board by the primary filing deadline. The petitions shall be on a form prescribed by the State Board and shall be sealed in one or more containers to which is attached a written statement giving the name of the presidential candidate and the number of signatures on the petitions contained in the containers. Such person or group shall also attach a list of the names of persons who would be elected delegates and alternate delegates to the political party's national convention if the person wins the primary and the party has determined that its delegates will be selected pursuant to the primary. The slate of delegates and alternates shall comply with the rules of the national and state party.

The State Board shall transmit the material so filed to the state chairman of the party of the candidate immediately after the primary filing deadline. The sealed containers containing the petitions for a candidate may be opened only by the state chairman of the party of the candidate. The state chairman of the party shall, by the deadline set by the State Board, furnish to the State Board the names of all candidates who have satisfied the requirements of this section. Whenever only one candidate for a party's nomination for President of the United States has met the requirements to have his name on the ballot, he will be declared the winner and no presidential primary for that party will be held.

C. The names of all candidates in the presidential primary of each political party shall appear on the ballot in an order determined by lot by the State Board.

D. The State Board shall certify the results of the presidential primary to the state chairman. If the party has determined that its delegates and alternates will be selected pursuant to the primary, the slate of delegates and alternates of the candidate receiving the most votes in the primary shall be deemed elected by the state party. If the party has determined to use another method for selecting delegates and alternates, those delegates and alternates shall be bound to vote on the first ballot at the national convention for the candidate receiving the most votes in the primary unless that candidate releases those delegates and alternates from such vote.

E. The election, or binding of votes, of delegates to a political party's national convention for the nomination of that party's candidates for President and Vice President of the United States through the presidential primary process shall be considered to be equivalent to a primary for the nomination of a party's candidate.

F. The cost of the presidential primary shall be paid by the Commonwealth pursuant to the provisions of the appropriation act.

(1999, c. 972; 2000, c. 379; 2003, c. 1015.)

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