

HOUSE BILL NO. 2668

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Privileges and Elections

on)

(Patron Prior to Substitute—Delegate Simon)

A BILL to amend and reenact §§ 24.2-103 and 24.2-109 of the Code of Virginia, relating to elections; administration; procedures for removal of electoral board members and general registrars.

on _____)

Be it enacted by the General Assembly of Virginia:**1. That §§ 24.2-103 and 24.2-109 of the Code of Virginia are amended and reenacted as follows:****§ 24.2-103. Powers and duties in general; report.**

A. The State Board, through the Department of Elections, shall supervise and coordinate the work of the county and city electoral boards and of the registrars to obtain uniformity in their practices and proceedings and legality and purity in all elections. Its supervision shall ensure that major risks to election integrity are (i) identified and assessed and (ii) addressed as necessary to promote election uniformity, legality, and purity. It shall make rules and regulations and issue instructions and provide information consistent with the election laws to the electoral boards and registrars to promote the proper administration of election laws. Electoral boards and registrars shall provide information requested by the State Board and shall follow (a) the elections laws and (b) the rules and regulations of the State Board insofar as they do not conflict with Virginia or federal law. The State Board shall post on the Internet within three business days any rules or regulations made by the State Board. Upon request and at a reasonable charge not to exceed the actual cost incurred, the State Board shall provide to any requesting political party or candidate, within three days of the receipt of the request, copies of any instructions or information provided by the State Board to the local electoral boards and registrars.

B. The State Board, through the Department of Elections, shall ensure that the members of the electoral boards are properly trained to carry out their duties by offering training annually, or more often, as it deems appropriate, and without charging any fees to the electoral boards for the training.

C. The State Board, through the Department of Elections, shall conduct a certification program for the general registrars and shall require each general registrar to receive certification through such program from the Department within 12 months of his initial appointment or any subsequent reappointment. The State

Board may grant a waiver requested by a local electoral board to extend, on a case-by-case basis, this deadline by up to three months. The State Board shall develop a training curriculum for the certification program and standards for completing the program and maintaining certification, including required hours of annual training. No fees shall be charged to a general registrar for any required training as part of the certification program. The State Board shall review the certification program every four years, or more often as it deems appropriate.

D. The State Board shall set the training standards for the officers of election and shall develop standardized training programs for the officers of election to be conducted by the local electoral boards and the general registrars. Training of the officers of election shall be conducted and certified as provided by § 24.2-115.2. The State Board shall provide standardized training materials for such training and shall also offer on the Department of Elections website a training course for officers of election. The content of the online training course shall be consistent with the standardized training programs developed pursuant to this section. The State Board shall review the standardized training materials and the content of the online training course every two years in the year immediately following a general election for federal office.

E. The State Board may institute proceedings pursuant to § 24.2-234.1 for the removal of any member of an electoral board or general registrar ~~who fails to discharge the duties of his office in accordance with law.~~ *Such action shall require by a recorded majority vote of the Board after a public hearing on related matters.*

The State Board may remove any member of an electoral board or general register by a recorded two-thirds majority vote of all its members after a public hearing on related matters. Such decision shall be final and not subject to appeal.

The State Board shall prescribe standards and procedures for the conduct of public hearings conducted pursuant to this subsection.

An electoral board member or general registrar may be removed or have removal proceedings instituted against him pursuant to this subsection for (i) neglect of a clear, ministerial duty of the office, misuse of the office, or incompetence in the performance of the duties of the office where such neglect, misuse, or incompetence has a material adverse effect upon the conduct of the office or (ii) an unambiguous indication of a future refusal or failure to carry out the duties of the office where such refusal or failure would likely have a material adverse effect upon the conduct of the office.

F. The State Board may petition a circuit court or the Supreme Court, whichever is appropriate, for a writ

of mandamus or prohibition, or other available legal relief, for the purpose of ensuring that elections are conducted as provided by law.

G. The Department of Elections shall supervise its own staff to assure that no member of its staff shall serve (i) as the chairman of a political party or other officer of a state-, local-, or district-level political party committee or (ii) as a paid or volunteer worker in the campaign of a candidate for nomination or election to an office filled by election in whole or in part by the qualified voters of the Commonwealth.

H. The Department of Elections shall employ a Director of Operations who shall be responsible for managing the day-to-day operations at the Department of Elections and ensuring (i) fulfillment of the Department's mission and responsibilities; (ii) compliance with state and federal election laws and regulations; and (iii) compliance with the Department's business, administrative, and financial policies. This position shall be a full-time classified position subject to the Virginia Personnel Act (§ 2.2-2900 et seq.).

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

J. The State Board shall submit an annual report to the Governor and the General Assembly on the activities of the State Board and the Department of Elections in the previous year. Such report shall be governed by the provisions of § 2.2-608.

§ 24.2-109. Appointment and removal of general registrar and officers of election; powers and duties in general.

A. Each electoral board shall appoint the general registrar for its city or county and officers of election for each precinct who shall serve in all elections, including town elections, as provided in this chapter. The secretary of the electoral board shall promptly notify each appointee of his appointment.

B. The electoral board ~~by a recorded majority vote~~ may ~~(i)~~ institute proceedings pursuant to § 24.2-234.1 for the removal of any general registrar ~~who fails to discharge the duties of his office according to law or (ii) remove from office, on notice, any officer of election who fails to discharge the duties of his office according to law~~ by a recorded majority vote of the Board after a public hearing on related matters.

The electoral board may remove a general registrar by a recorded unanimous vote of all its members after a public hearing on related matters. A registrar who is so removed may file a notice of appeal to the State Board within three business days. Upon receipt of a properly filed appeal, the State Board shall schedule a public hearing on the matter as soon as practicable. Upon consideration of the appeal, the State Board may reverse the decision of the electoral board by a recorded two-thirds majority vote of all its

89 *members. Such decision shall be final and not subject to appeal. A general registrar who is removed by a*
90 *unanimous vote of the electoral board shall remain in office until the expiration of the deadline to file a*
91 *notice of appeal or, if the notice of appeal is properly filed, until the State Board renders a final decision*
92 *upholding the decision of the electoral board.*

93 *The State Board shall prescribe standards and procedures for the conduct of public hearings conducted*
94 *pursuant to this subsection.*

95 *A general registrar may be removed or have removal proceedings instituted against him pursuant to this*
96 *subsection for (i) neglect of a clear, ministerial duty of the office, misuse of the office, or incompetence in the*
97 *performance of the duties of the office where such neglect, misuse, or incompetence has a material adverse*
98 *effect upon the conduct of the office or (ii) an unambiguous indication of a future refusal or failure to carry*
99 *out the duties of the office where such refusal or failure would likely have a material adverse effect upon the*
100 *conduct of the office.*

101 *C. The electoral board shall remove from office, on notice, any general registrar who fails to receive or*
102 *maintain certification as required by the State Board pursuant to subsection C of § 24.2-103.*

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