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SENATE BILL NO. 556

Offered January 12, 2022

Prefiled January 12, 2022

A *BILL to amend and reenact § 24.2-102 of the Code of Virginia, relating to State Board of Elections; membership.*

Patron—Ruff

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:**1. That § 24.2-102 of the Code of Virginia is amended and reenacted as follows:****§ 24.2-102. Appointment; terms; Commissioner of Elections; prohibited activities.**

A. The State Board of Elections is continued and shall consist of ~~five~~ *six* 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 *as well as any third party or recognized political party, as defined in § 24.2-613, whose candidate received greater than 20 percent of the votes in the* Commonwealth for Governor at the last preceding gubernatorial election. Three Board members shall be of the political party that cast the highest number of votes for Governor at that election *and three Board members shall be of the political party that cast the second highest number of votes for Governor at that election, unless a third party or recognized political party qualifies for representation, in which case two Board members shall be of the political party that cast the second highest number of votes for Governor and one Board member shall be of the third party or recognized political party that so* qualified. 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 three Board members shall be of the political party having the highest number of members in the General Assembly. Each political party *or recognized political party* entitled to an appointment may make and file recommendations with the Governor for the appointment. Its recommendations shall contain the names of at least three qualified voters of the Commonwealth. Appointments shall be made with due consideration of geographical representation, and no two Board members shall reside in the same congressional district.

After the initial staggering of terms, Board members shall serve terms of ~~four~~ *five* years, which shall begin on February 1 of the year of the appointment. Vacancies shall be filled for the unexpired terms. No member shall be eligible for more than two successive ~~four-year~~ *five-year* terms. A member appointed for an unexpired term may be appointed for the two succeeding ~~four-year~~ *five-year* terms.

Each year the Governor shall designate one Board member to be the chair of the Board and one Board member to be the vice-chair. The chair and vice-chair shall be members of opposite political parties.

No member of the Board shall be eligible to offer for or hold an office to be filled in whole or in part by qualified voters in the Commonwealth. If a member resigns to offer for or hold such office, the vacancy shall be filled as provided in this section.

No member of the Board shall serve as the chairman of a state, local, or district level political party committee or 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 qualified voters in the Commonwealth.

B. The Governor shall appoint a Commissioner of Elections, subject to confirmation by the General Assembly, to head the Department of Elections and to act as its principal administrative officer. The Commissioner shall be appointed to a term of four years, which shall begin on July 1 of the year following a gubernatorial election. The Commissioner shall be a qualified voter of the Commonwealth.

The Commissioner shall receive the salary fixed by law. He may employ the personnel required to carry out the duties required by law and imposed by the Board.

The Commissioner shall not be eligible to offer for or hold an office to be filled in whole or in part by qualified voters in the Commonwealth. His candidacy for or election to such office shall vacate his position as Commissioner, and the Governor shall fill the vacancy for the unexpired term.

The Governor shall not appoint as Commissioner (i) any person who is the spouse of a member of the Board or of a person seeking election to an office or holding an elective office that is filled in whole or in part by qualified voters in the Commonwealth; (ii) any person, or the spouse of any person, who is the grandparent, parent, sibling, child, or grandchild of a member of the Board; or (iii) any person, or the spouse of any person, who is the grandparent, parent, sibling, child, or grandchild of a

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59 person seeking election to an office or holding an elective office that is filled in whole or in part by
60 qualified voters in the Commonwealth. The Commissioner shall submit his resignation to the Governor
61 on the date that any such person files as a candidate for election to an office that is filled in whole or in
62 part by qualified voters in the Commonwealth.

63 The Commissioner shall not serve as the chairman of a state, local, or district level political party
64 committee or as a paid or volunteer worker in the campaign of a candidate for nomination or election to
65 an office filled by election in whole or in part by qualified voters in the Commonwealth.

66 **2. That the provisions of this act shall become effective on January 1, 2023.**

67 **3. That the members of the State Board of Elections serving a term that began prior to the**
68 **effective date of this act and is set to expire January 31, 2025, shall continue to serve until their**
69 **successors are appointed pursuant to the fourth enactment of this act.**

70 **4. That the initial appointments of members of the State Board of Elections shall be staggered as**
71 **follows: two members, one representing the political party of the Governor and one representing**
72 **the political party that had the next highest number of votes in the Commonwealth for Governor**
73 **at the last preceding gubernatorial election, shall each be appointed for a term to expire January**
74 **31, 2024, and two members, one representing the political party of the Governor and one**
75 **representing the political party that had the next highest number of votes in the Commonwealth**
76 **for Governor at the last preceding gubernatorial election, shall each be appointed for a term to**
77 **expire January 31, 2028. The two members of the State Board serving a term that began prior to**
78 **the effective date of this act and is set to expire January 31, 2025, shall continue to serve until**
79 **such term expires, at which time two members shall be appointed for a term to expire January 31,**
80 **2030. Of these two appointments, one member shall represent the political party of the Governor,**
81 **and one member shall represent the political party that had the next highest number of votes in**
82 **the Commonwealth for Governor at the last preceding gubernatorial election, unless a third party**
83 **or recognized political party qualifies for representation on the State Board of Elections pursuant**
84 **to § 24.2-103 of the Code of Virginia, as amended by this act, in which case one member shall**
85 **represent the third party or recognized political party that so qualified.**

86 **6. That the initial appointment of the Commissioner of Elections by the State Board of Elections**
87 **shall be for a term to expire on June 30, 2022. After the initial appointment of the Commissioner**
88 **of Elections by the State Board of Elections pursuant to this enactment, the appointment shall be**
89 **for four years beginning on July 1 of the year following a gubernatorial election.**