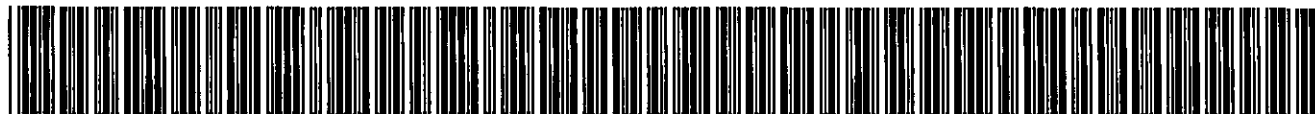


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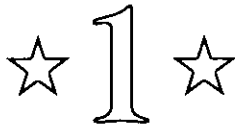
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Commonwealth of Virginia

**Proposed Constitutional
Amendments
to be voted on at the
November 5, 1996
Special Election**

Authorized By
State Board of Elections
M. Bruce Meadows, Secretary
200 North 9th Street, Room 101
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Proposed Constitutional Amendment

PUBLIC EMPLOYEES RETIREMENT SYSTEM

BALLOT QUESTION

Shall the Constitution of Virginia be amended to provide that the funds in the governmental employees retirement system shall be trust funds and be invested and administered solely in the interests of the members and beneficiaries of the system?

EXPLANATION

This amendment revises the provision that requires the General Assembly to maintain a retirement system for public employees.

Present Constitution

The Constitution now contains one brief statement directing the General Assembly to maintain a retirement system for state employees. The General Assembly provides by law how the system operates, what retirement benefits are provided, and how taxpayers and employees pay for retirement benefits.

The Virginia Retirement System trust funds come from employer and employee contributions. The amounts of those contributions are set as provided by law. Money contributed by today's employers (the state and participating localities) and today's public employees, and earnings on that money, will pay the future costs of the retirement benefits for those employees. The Commonwealth uses "actuarial principles" to predict what those costs will be and to set those contribution rates. Actuarial principles take into account life expectancy and other factors to predict those costs.

Proposed Change

In 1993, the General Assembly directed the Joint Legislative Audit and Review Commission to study the Virginia Retirement System. The Commission reported a number of recommendations to the 1994 General Assembly. One recommendation was that the General Assembly consider a constitutional amendment to strengthen the independence of the retirement system and to protect funds belonging to the system.

The Commission pointed out that the Virginia Retirement System operates under state statutes and federal tax laws. Those laws require the system to operate for the benefit of its members and retirees but, like any other law, are subject to change by the legislature.

The Commission suggested that a constitutional amendment could guarantee that the funds belonging to the system would be independent trust funds and used solely for the benefit of the members and beneficiaries of the system. The proposed change would require the Commonwealth to hold the system's funds separate from other state revenues and prevent the Commonwealth from using the funds for any other purpose.

In response to the Commission's report, the General Assembly has proposed the addition of the following specific requirements to the Constitution:

- ★ There will be a retirement system for state employees and for the employees of localities and school divisions that join the system.
- ★ The funds held by the retirement system will be independent trust funds, will be kept separate from other public funds, and will be invested only in the interests of the system's members and beneficiaries.
- ★ The funds will be used only for benefits, refunds and the administrative expenses of the retirement system.
- ★ Retirement system benefits must be funded on a basis that is consistent with "generally accepted actuarial principles."



Proposed Constitutional Amendment

RIGHTS OF VICTIMS OF CRIME

BALLOT QUESTION

Shall the Constitution of Virginia be amended to provide that the victims of crime shall be treated with fairness, dignity, and respect in the criminal justice process and that the General Assembly may define, by law, the rights of victims of crime?

EXPLANATION

This amendment adds a provision to the Virginia Constitution's Bill of Rights concerning victims of crime. The new language describes the General Assembly's authority to pass laws concerning the rights or protections for victims of crime.

Present Constitution

The Bill of Rights in the present Constitution does not mention victims of crime.

Proposed Change

The proposed amendment adds a new provision to the Bill of Rights. The new provision begins with the statement that victims of crime should be treated with "fairness, dignity and respect" by the Commonwealth and its officers and employees. It also says that the General Assembly may provide by law that the victim of a crime will have certain rights. The General Assembly will be able to define and spell out what these rights will be.

The new provision lists seven examples of what rights might be provided by law for victims of crime. These examples include:

- ★ protection of the victim through appropriate bail and release conditions for the criminal;

- ★ proper treatment of the victim;
- ★ the right of the victim to make a statement when the criminal is sentenced;
- ★ notice to the victim of the progress of the case;
- ★ restitution to the victim for harm done to him;
- ★ notice to the victim if the criminal is released or escapes; and
- ★ the right of the victim to confer with the prosecutor.

The General Assembly may provide by law for one or more of these rights and may provide different or additional rights or protections for victims of crime. In fact, the General Assembly has already passed several laws that give victims of crime some of these rights and protections.

The new provision does not give any victim of a crime the right to participate in a criminal case by appealing a decision or asking the court to change any decision. The new provision does not give any person the right to sue the Commonwealth or any public officer or employee for a violation of these rights. Finally, the new provision does not change any right that the Constitution of the United States or Virginia now guarantees to any person accused of, or tried for, a crime.



Proposed Constitutional Amendment

COMMONWEALTH'S RIGHT OF APPEAL

BALLOT QUESTION

Shall the Constitution of Virginia be amended to authorize the General Assembly to allow the Com-

monwealth the right of an appeal in all cases, including criminal cases, provided that the appeal would not violate the Virginia or United States Constitutions?

EXPLANATION

This amendment concerns the right of the Commonwealth to appeal to a higher court to overturn a decision by a lower court in a criminal case.

Present Constitution

The Virginia Constitution limits the Commonwealth's or prosecution's right to appeal in criminal cases. The Constitution sets out a general rule that the prosecution cannot ask a higher court to overturn the decision in a criminal case with two exceptions.

The first exception permits appeals by the Commonwealth when the crime involves state revenues or taxes. The second exception allows the Commonwealth to appeal certain decisions during the early stages of a felony case before the jury is sworn or, if it is not a jury case, before the judge hears any evidence. For example, the Commonwealth may appeal to a higher court to overturn the decision, made by a judge before the trial begins, that the Commonwealth may not use evidence which it obtained through a search or confession.

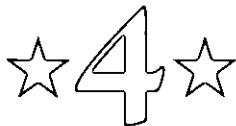
Most states do not have a constitutional provision on this topic but provide by law when the prosecution may appeal and what the limits are on the appeal rights of the prosecution.

The United States and Virginia Constitutions also limit the right of the prosecution to appeal through the "double jeopardy" principle. No person can be tried or "put in jeopardy" twice for the same offense. The Commonwealth cannot try a person more than once for one crime.

Proposed Change

The proposed amendment replaces the present Constitution's provision which limits the Commonwealth's right of appeal. The new language permits the General Assembly to pass laws on the

question of when the Commonwealth may appeal. The laws passed by the General Assembly must not violate other provisions of the United States or Virginia Constitutions. The rules against trying a person twice for the same crime will still apply.



Proposed Constitutional Amendment

VOTING AND VOTER REGISTRATION

BALLOT QUESTION

Shall the Constitution of Virginia be amended so that the form for voter registration applications may be revised and so that voters who move within Virginia may be allowed to vote in their former precincts under the conditions and time limits provided by law?

EXPLANATION

This amendment gives the General Assembly more authority to enact laws concerning two matters affecting voters: what information should be required on an application to register to vote and how voters may continue to vote after they move within the Commonwealth.

VOTER REGISTRATION APPLICATIONS

Present Constitution

Virginia's Constitution sets out a detailed list of the information required on voter registration applications. Most states provide what information a new voter must give on an application to register by legislation, rather than in their constitutions.

The National Voter Registration Act of 1993 provides for a national form for registering to vote in federal elections. That form does not require all of the information required by Virginia's current

Constitution. For example, the federal form does not require place of birth. So long as Virginia's Constitution requires more information than the federal form does, there is a possibility that Virginia would have to keep a separate list of voters who register by using the federal form. Those voters would be eligible to vote in federal elections but not in state or local elections.

Proposed Change

The proposed amendment keeps the present Constitution's requirements for information on full name, date of birth, residence address, social security number, if any, and United States citizenship. The amendment deletes other specific items of information. However, the amendment gives the General Assembly authority to require other information by law and will allow Virginia to accept the federal form for federal, state, and local elections.

VOTERS WHO MOVE WITHIN VIRGINIA

Present Constitution

As a rule, voters must be residents of the precinct where they vote. When voters move to another precinct, they must transfer their registration to the new precinct and vote there. Virginia's Constitution gives voters who move from one precinct to another within Virginia up to a year to change their voter registration to the new address and permits voters to continue voting in their old precinct through the next November general election. In certain cases, the National Voter Registration Act differs from Virginia law, gives voters more time to change their registration, and permits them to continue voting for their congressman for two federal elections.

Proposed Change

The proposed amendment replaces the Constitution's present provision with new language. The new provision will allow the General Assembly to provide by law how voters who move within the Commonwealth may continue to vote until they change their registration.

The new language states that the General Assembly may set the time limits and conditions under which voters who move within the Commonwealth may continue to vote in their old precinct. For example, the General Assembly could give voters more time, in appropriate cases, to transfer their registration to the new residence and could eliminate the difference between the National Act and state election laws on this issue.



Proposed Constitutional Amendment

INCORPORATION OF CHURCHES AND RELIGIOUS DENOMINATIONS

BALLOT QUESTION

Shall the Constitution of Virginia be amended to remove the language which prohibits the General Assembly from passing a law permitting incorporation of any church or religious organization?

EXPLANATION

This amendment deletes a provision in the present Constitution that prohibits the incorporation of churches and religious denominations. The amendment will allow the General Assembly to provide, by law, permission for churches to incorporate. When a group of people form a corporation under state law, the corporation is treated as a separate entity from the group. Among other things, the law allows a corporation to own property separately from the group and to continue to own the property in the name of the corporation although the members of the group change from time to time.

Present Constitution

The Constitution now says

“The General Assembly shall not grant a charter of incorporation to any church or religious denomination, but may secure the title to church property to an extent to be limited by law.” Article IV, Section 14.

Members of the General Assembly and scholars have disagreed on the exact meaning of this limit on the powers of the General Assembly. Some people argue that it means that the General Assembly cannot pass a law that gives a specific church a charter of incorporation. Others argue that the provision means that the General Assembly cannot pass a law allowing churches in general to incorporate.

In 1969, the Commission on Constitutional Revision recommended that this provision be deleted from the Constitution. The Commission questioned whether the provision discriminated against religious bodies. It thought that the provision might violate the First Amendment of the United States Constitution by limiting religious freedom. The Commission said the provision denied religious bodies the choice to incorporate when other groups have that choice.

The 1969 General Assembly disagreed with the Commission and kept the provision in the Constitution. Some members agreed with the Commission, but a majority opposed any change. The majority argued that churches have no need to incorporate and that the provision protects churches from interference by the state.

Proposed Change

The proposed amendment deletes the present prohibition. The amendment strikes the words: “shall not grant a charter of incorporation to any church or religious denomination, but.” (The amendment does not change the provision that authorizes the General Assembly to pass laws limiting church property holdings.)

If the amendment is adopted, the General Assembly will be able to give churches and religious bodies the option to incorporate under state law.