

CHAPTER 16.1-14 PRESIDENTIAL ELECTORS

16.1-14-01. Canvassing votes for presidential electors - Tie vote.

The state canvassing board, in examining and making a statement of the votes for, and in determining and certifying the individuals chosen as presidential electors, shall proceed in the manner prescribed in this title for the canvass of votes for state officers. The secretary of state shall file and record the statement and determination. In canvassing the returns for presidential electors, the group of electors having the greatest number of votes is to be declared elected. If two or more groups of electors are found to have an equal and the greatest number of votes, the election of one group must be determined by a drawing of names, with the governor drawing the names in the presence of the other members of the state canvassing board.

16.1-14-02. Secretary of state to prepare certificates of election.

The secretary of state shall prepare certificates of election for each presidential elector chosen at the election. Each certificate must be signed by the governor and the secretary of state and the great seal of the state must be affixed thereto. One certificate must be delivered to each of the electors chosen.

16.1-14-03. Proclamation of result by governor - Publishing - Certificate of election.

Within ten days after the state canvassing board completes the canvass of the votes cast for presidential electors, as certified by the auditors of the respective counties, the governor shall declare by proclamation, to be printed in the official county newspaper printed and published at the seat of government, the names of the individuals who have received the highest number of votes returned for the office of presidential elector. If the election of the individuals has not been contested by notice of contest having been filed with the governor within ten days after the date of the proclamation, the individuals are deemed elected, and the governor shall transmit a certificate of election to each chosen individual.

16.1-14-04. Meeting of presidential electors.

Presidential electors shall meet at one p.m. in the office of the governor in the state capitol on the first Monday after the second Wednesday in December next following their appointments by election for the purpose of casting their ballots as members of the electoral college. The secretary of state shall notify the electors of the date of the meeting.

16.1-14-05. Filling of vacancy existing in office of presidential elector.

Repealed by S.L. 2021, ch. 167, § 25.

16.1-14-06. Compensation of presidential electors.

The electors provided for in this chapter shall receive the same per diem and the same mileage as members of the legislative assembly.

16.1-14-07. Board for trial of contest of presidential electors - How constituted - Oath.

The board for the trial of contests of elections for presidential electors shall consist of the chief justice of the supreme court, who must be president of the board, and two judges of the district court designated by the governor. If the chief justice is unable to attend at such trial, the next senior judge on the supreme court shall preside in place of the chief justice. The secretary of state must be the clerk of the board, or in the secretary of state's absence or inability to act, the clerk of the supreme court must be the clerk. Each member of the board, before entering upon the discharge of the member's duties, shall take an oath, before the secretary of state or some other officer qualified to administer oaths, that without fear, favor, affection, or hope of reward, the member will, to the best of the member's knowledge and ability, administer justice according to law and the facts of the case.

16.1-14-08. Contestant may apply to board.

A group of electors of a presidential candidate not listed in the proclamation of the governor issued according to section 16.1-14-03 and who received at least one-fifth of the votes cast at an election for presidential electors, as certified by the state canvassing board, may apply to the board provided for in section 16.1-14-07 for a declaration of election as presidential electors.

16.1-14-09. Application to state grounds of contest.

The application provided for in section 16.1-14-08 must be made by petition in writing and filed in the office of the secretary of state within ten days from the date of the proclamation provided for in section 16.1-14-03. The petition, regardless of its mode of delivery, must be in the possession of the secretary of state before four p.m. on the tenth day as provided in this section, and the secretary of state shall convene the board for the trial of contests of elections for presidential elections. The petition must set forth the names of the individuals whose election is contested and the ground for such contest. The petitioner, before any proceedings are had upon the petition, except the convening of the board, shall file a bond to this state in a sum and with surety as the board shall order, conditioned for the payment of all costs incurred in the prosecution of the contest in case the contestants do not prevail.

16.1-14-10. Notice to individuals contested.

Upon the filing of the petition and bond as provided in section 16.1-14-09, the board for the trial of contests of elections for presidential elections shall order written notice of the petition to be given to the governor and to the individuals whose election is contested. Notice also must be published in a newspaper as the board shall order. A notice required by this section must contain a concise statement of the facts alleged in the petition and a designation of the time and place fixed by the board for the hearing. The hearing must be not less than three nor more than fifteen days from the filing of the petition.

16.1-14-11. Appearance by parties to contest.

At the time fixed for the hearing, the petitioners shall appear and produce their evidence, and the individuals whose election is contested may appear and produce evidence in the individuals' behalf. Any party to the contest proceedings may appear in person or by attorney, and no other person is entitled to be made a party to the proceedings or to be heard personally or by counsel. If more than one petition is pending, the board, in its discretion, may order the contests to be heard together.

16.1-14-12. Hearing - How conducted.

The board shall hear the contest and decide all questions of law and fact involved. The burden of proof in each case is on the petitioners. The hearing is confined to the grounds stated in the petition, but the board may allow the petition to be amended. Ex parte affidavits are not competent evidence at the hearing. An individual may not be excused from testifying or from producing papers or documents at the hearing on the grounds the testimony will tend to incriminate the individual, but an individual testifying may not be subject to any suit or prosecution, civil or criminal, for any matter or cause in respect to which the individual is examined or to which the individual's testimony relates. The board has the same power to compel the attendance of witnesses as the district courts of this state possess, and nothing in this chapter limits the power of the board to make regulations as to the conduct of the proceedings as the board deems proper, not inconsistent with the provisions of this chapter. The board has all powers necessary to the complete performance of the duties and authority conferred upon the board by this chapter.

16.1-14-13. Certification of determination of board.

The board shall determine in each case which of the parties to the proceedings are entitled to the office of elector, and shall cause the board's determination to be entered of record in a manner and form as the board shall direct, and shall certify the same to the governor and secretary of state. The certified determination is a final and conclusive determination the

individuals identified in the determination are duly elected. The governor shall transmit certificates of election to the individuals, and every certificate must recite the certificate is issued pursuant to a determination under this chapter.

16.1-14-14. Failure of petitioners to appear - Effect.

If any petitioners fail to appear and prosecute their petition against the individuals who have been made respondents, according to the requirements of this chapter and of any rules made by the board, the board shall determine the petitioners have failed, and shall cause the determination to be entered of record in the manner and form the board shall direct, and shall certify the determination to the governor and secretary of state. The determination is a final and conclusive bar to the claim of the petitioners against the respondents as fully and completely as if the claim had been heard and determined on its merits, and the governor shall issue certificates of election as provided in section 16.1-14-13.

16.1-14-15. Costs - Taxation.

The costs of an election contest under the provisions of this chapter must be taxed under the direction of the board. If two or more cases are heard together, the costs must be apportioned as the board shall direct. In each case in which the petitioners do not prevail, the costs must be paid by them, and in each case in which the petitioners prevail, the costs must be paid by the state. If the costs are required to be paid by the state, the board shall certify the costs to the office of management and budget, which shall issue a warrant upon the state treasurer in payment of the same.

16.1-14-16. Determination of final hearing.

The final hearing and determination under the provisions of this chapter must be by a majority of the board, but any single member may exercise any of the other powers given to the board by this chapter.

16.1-14-17. Mileage and per diem of board members.

The members of the board trying the presidential election contest must be compensated in the same manner as state officers pursuant to sections 44-08-04 and 54-06-09.

16.1-14-18. Eligibility of new residents to vote.

Repealed by S.L. 2021, ch. 167, § 25.

16.1-14-19. Eligibility of former residents to vote.

Repealed by S.L. 2021, ch. 167, § 25.

16.1-14-20. Application for presidential ballot by new residents.

Repealed by S.L. 2021, ch. 167, § 25.

16.1-14-21. Mailing duplicate application.

Repealed by S.L. 2021, ch. 167, § 25.

16.1-14-22. Filing and indexing information from other states.

Repealed by S.L. 2021, ch. 167, § 25.

16.1-14-23. Delivery of ballot to applicant.

Repealed by S.L. 2021, ch. 167, § 25.

16.1-14-24. Voting by new residents.

Repealed by S.L. 2021, ch. 167, § 25.

16.1-14-25. List of applicants open for public inspection.

Repealed by S.L. 2021, ch. 167, § 25.

16.1-14-26. Delivery and processing of presidential elector ballots.

Repealed by S.L. 2021, ch. 167, § 25.

16.1-14-27. Application of other statutes.

Repealed by S.L. 2021, ch. 167, § 25.

16.1-14-28. Definition of state.

Repealed by S.L. 2021, ch. 167, § 25.