

10/1/09

Candidacy Requirements

For Clerk of Court County of Smyth

January 12, 2010 Special Election



INTRODUCTION

This bulletin and all required forms are available on our web site:

http://www.sbe.virginia.gov/cms/Cidate_Information/Index.html

Each document is explained in Item IV on Pages 3, 4, and 5 herein.

Filing deadlines and the officer with whom the qualifying forms are filed are addressed for each candidate type, i.e., Party Candidate Nominated By Method Other Than A Primary and Independent (Non-Party) candidate.

Your particular attention is called to Item I on Page 1. This section addresses Campaign material identification.

Should you have questions relating to your candidacy, please do not hesitate to call us on our toll-free line 800-552-9745 and ask for the Election Services Division **OR** if your questions relate to campaign contributions or expenditures, campaign advertising, or disclaimers, ask for the Campaign Finance Division. You also can reach us at 804-864-8901.





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I. ADVERTISING AND CAMPAIGN MATERIALS

The Campaign Finance Disclosure Act imposes certain requirements relating to advertising and identification of campaign ads and materials, including sample ballots.

Refer to Chapter 14 the *Candidate Campaign Committee Summary* published by the State Board of Elections for specific requirements. If you have questions on the Act, please call our toll-free line and ask for the Campaign Finance Division.

The following is provided for your additional information:

A. Sample Ballots

Any **sample** of a paper or voting equipment **ballot** must contain the words **SAMPLE BALLOT**, the appropriate statement required by the Campaign Finance Disclosure Act and, in addition, must:

- (a) contain the words **SAMPLE BALLOT** in not less than 24 point type; and
- (b) be printed on paper of a color **other than white or yellow (canary)**.

B. Posting

Contact your County Administrator to determine whether local ordinances prohibit or restrict the posting of campaign materials. Also see Page 2 herein.

No locality shall have the authority to prohibit the display of political campaign signs on **private property** if the signs are in compliance with zoning and right of way restrictions applicable to temporary nonpolitical signs and if the signs have been posted with the permission of the owner of the property. [§15.2-109 of the *Code of Virginia*]

C. Violations

If you believe that either any local ordinance or any election law has been violated and you have facts concerning the violation, you should report those facts in writing to the Commonwealth's Attorney for the county in which the violation happened.

Violations of state-owned right of way restrictions should be reported to your regional Virginia Department of Transportation office.

II. VDOT INFORMATION

A “clean” campaign is a sign of the time



Don’t “trash” your print budget or throw away volunteer time.

HIGHWAY WORKERS ARE REQUIRED BY LAW TO REMOVE POSTERS AND FLYERS ON SIGNS, GUARDRAILS - OR ANYWHERE ELSE ON STATE-OWNED RIGHT OF WAY. CAMPAIGN PRINT MATERIALS ARE TOO EXPENSIVE TO WIND UP IN THE BACK OF A VDOT TRUCK. AND VOLUNTEER TIME IS TOO VALUABLE TO BE WASTED ON PUTTING UP MATERIALS THAT ARE DESTINED TO COME DOWN.



Don’t make highway workers “play politics” on the job.

PICKING UP POLITICAL MATERIALS IS A COSTLY ACTIVITY FOR VDOT. BUT THE COST TO THE CANDIDATE COULD BE EVEN HIGHER. VOTERS DON’T LIKE TO SEE THEIR TAX DOLLARS SUPPORTING SUCH ACTIVITIES. THEY EXPECT TO SEE HIGHWAY WORKERS PATCHING POTHOLES, FILLING LOW SHOULDERS, OR MOWING GRASS.



Don’t let campaign materials turn into litter.

MANY VOTERS VOLUNTEER THEIR TIME TO CLEAN UP ROADSIDES IN VDOT’S “ADOPT-A-HIGHWAY” PROGRAM. AFTER SPENDING SEVERAL BACK-BREAKING HOURS BENDING OVER TO PICK UP POLITICAL POSTERS, THEY WON’T FEEL TOO KINDLY TOWARDS THE NAMES AND FACES THAT THEY SEE OVER AND OVER AGAIN.



Don’t get “stuck” by bumper stickers.

ONE LITTLE BUMPER STICKER CAN CAUSE A LOT OF EXPENSE. IF APPLIED TO A ROADSIDE SIGN, THE STICKY RESIDUE IS ALMOST IMPOSSIBLE TO REMOVE. THE SIGN MAY HAVE TO BE REPLACED ENTIRELY. THE LARGE GREEN HIGHWAY SIGNS, FOR EXAMPLE, CAN COST UP TO \$800. EVEN A HUMBLE STOP SIGN COSTS MORE THAN \$50. DON’T RISK ALIENATING VOTERS BY DESTROYING THE VERY SIGNS THAT THEIR TAX DOLLARS HAVE PAID FOR.



Don’t risk someone’s life.

ONE MISPLACED SIGN AT AN INTERSECTION COULD BLOCK A MOTORIST’S VISION - AND COST SOMEONE HIS LIFE. THAT’S WHY VDOT TRAFFIC ENGINEERS REVIEW THE PLACEMENT AND POSITION OF EACH HIGHWAY SIGN TO ENSURE SAFETY - AND TO MINIMIZE “VISUAL CLUTTER”. UNDERSTANDABLY, CAMPAIGN VOLUNTEERS ARE THINKING ABOUT VICTORY - NOT SAFETY. AND THAT COULD POSE A DEADLY PROBLEM.

DO put signs, posters, and other campaign materials anywhere you want on private property with the owner’s permission, of course. And because political signs and posters located off the right of way aren’t considered “outdoor advertising”, you won’t even need a permit.

VDOT - call your local Virginia Department of Transportation office for details.

III. QUALIFICATIONS TO BE A CANDIDATE

A candidate must be:

- ◆ Qualified to vote for and hold the office sought;
- ◆ A resident of the Commonwealth for one year immediately preceding the election;
and
- ◆ A resident, by the time of filing, of the County of Smyth.

IV. DOCUMENTS REQUIRED TO BE FILED

A candidate must file certain documents in order to qualify to appear on the ballot. Each form is described below. An explanation of who is required to file each item also is provided. Each document can be downloaded from our website:

http://www.sbe.virginia.gov/cms/Cidate_Information/Cidate_Forms.html

A. **Statement of Organization for a CANDIDATE**

This document is prepared and distributed by the State Board of Elections. **All** candidates are required to file this form. Any individual serving as campaign treasurer must be a qualified voter of the Commonwealth of Virginia. A candidate may serve as his own treasurer.

Virginia law requires each candidate to provide the name, residence address, e-mail address, date of birth and daytime telephone number of his campaign treasurer, the name of the financial institution in which he establishes his campaign account and the name of his campaign committee.

This document is required to be filed as soon as you meet any of the conditions listed in Chapter 2, Section 2.2 – **Establishing a Candidate Campaign Committee** in the *Candidate Campaign Committee Summary* published by the State Board of Elections. This document also is posted on our website:

http://www.sbe.virginia.gov/cms/Campaign_Finance_Disclosure/Index.html

B. **Certificate of Candidate Qualification**

This document is prepared and distributed by the State Board of Elections. **All** candidates are required to file this form.

IV. DOCUMENTS REQUIRED TO BE FILED (continued)

C. **Declaration of Candidacy**

This document is prepared and distributed by the State Board of Elections. It must be filed by all Independent (non-party) candidates. It must be filed **at the same time** as the petitions.

Candidates for political party nomination by a method **other than a primary** file this declaration and the petitions described below only if so required by the rules of the political party. Contact your county chair to determine if they are required.

D. **Petition of Qualified Voters**

This document is prepared and distributed by the State Board of Elections. Petitions containing at least the number of signatures required for the office sought must be filed **together with** the *Declaration of Candidacy*. Petitions must be filed by all Independent (non-party) candidates.

1. **Petition Circulator**

Petitions can be circulated either by the candidate or by another person who is either registered, or eligible to be registered, and qualified to vote for the office.

The person circulating the petition must affirm before a notary or other person authorized to administer oaths, that he **personally witnessed** the affixing of each signature. Falsely taking this affidavit is a felony under Virginia law. The petition **NEVER** can be left unattended, i.e., left on the counter at a grocery store, restaurant, etc.

2. **Number of Signatures Required**

Petitions must contain the signatures of at least **125** qualified voters of the **County of Smyth**.

The State Board recommends that a candidate get at least half again the number of signatures required to assure that enough signers are qualified voters.

IV. DOCUMENTS REQUIRED TO BE FILED (continued)

E. **Statement of Economic Interests**

This document is prepared by the Secretary of the Commonwealth and should be available from the Clerk of the governing body.

It is also downloadable from the State Board of Elections website:

http://www.sbe.virginia.gov/cms/Cidate_Information/Cidate_Forms.html

It is required to be filed by all candidates for any constitutional office.

NOTE: A person who is appointed to fill a vacancy until it is filled by special election is required to file a Statement of Economic Interests as a condition to assuming the office.

He is not required to file another Statement of Economic Interests if he becomes a candidate in the Special Election.

V. FILING DEADLINE AND WHERE TO FILE

**For A Party Candidate
Nominated By Method Other Than A Primary**

Postmarks are acceptable **only** if these documents are mailed by registered or certified mail and a receipt showing date of mailing can be produced if demanded by the office with which the forms are filed.

REQUIRED FORMS	WHERE TO FILE	FILING DEADLINE
*1. Certificate of Candidate Qualification	General Registrar of the County of Smyth	5:00 p.m. 12/14/2009
*2. Statement of Economic Interests		

**Any person who fails to file all the required forms by the above deadline
MAY NOT have his name printed on the Special Election ballot.**

* Refer to Pages 3 through 5 herein for details.

VI. FILING DEADLINE AND WHERE TO FILE

For An Independent (Non-Party) Candidate

Items 1 and 2 listed below **must be received** by the *General Registrar* by the filing deadline. Postmarks are acceptable **only** for *Items 3 and 4* and **only** if they are mailed by registered or certified mail and a receipt showing date of mailing can be produced if demanded by the office with which the forms are filed.

REQUIRED FORMS	WHERE TO FILE	FILING DEADLINE
<ul style="list-style-type: none"> *1. Declaration of Candidacy *2. Petitions of Qualified Voters *3. Statement of Economic Interests *4. Certificate of Candidate Qualification 	General Registrar of the County of Smyth	5:00 p.m. 12/14/2009

**Any person who fails to file all the required forms by the above deadline
MAY NOT have his name printed on the Special Election ballot.**

* Refer to Pages 3 through 5 herein for details.

VII. NOTICE OF DEFICIENCIES IN DECLARATION OR PETITIONS

An Independent (non-party) candidate may request notification of any problems with his filing that can be corrected before the filing deadline. This request **must be in writing** as required by § 24.2-505 of the *Code of Virginia*.

This letter must be addressed to the Secretary of the Electoral Board of the candidate's county of residence. It must accompany the declaration of candidacy and petitions filed with the General Registrar.

The written request **does not guarantee** timely response. Certain factors, such as the number of filings, may affect the electoral board's ability to comply with the request. It is suggested that documents be filed **at least ten [10] working days before the filing deadline** if this notice is requested.

VIII. OTHER REQUIRED REPORTS

All candidates must file *pre-election* and *post-election* Reports of Campaign Contributions and Expenditures. These reports are filed **only** with the Electoral Board of the candidate's county of residence unless the candidate opts to file reports electronically. Electronic filings are made only to the State Board of Elections. For more information, visit our website:

http://www.sbe.virginia.gov/cms/Campaign_Finance_Disclosure/Index.html

No certificate of election can be issued to any successful candidate who fails to file the required reports.

Exception - A candidate for local office who files an exemption form certifying that he has not and will not solicit or accept any contribution from any other person or political committee during the course of his campaign and has not and will not contribute or expend more than \$1,000 during the course of his campaign, is required to file reports of large pre-election contributions and a final report. A form for this purpose is prepared and distributed by the State Board of Elections.

IX. ORDER OF NAMES ON BALLOTS

In **Special Elections**

The candidates of political parties appear first on the ballot in the order determined by a drawing conducted by the State Board of Elections. Independent (non-party) candidates appear in alphabetical order following the candidates of political parties.

X. THE SUCCESSFUL CANDIDATE

Any successful candidate must file, as a condition to assuming office, with the **Clerk of the Governing body**, a **second** Statement of Economic Interests as required by §§ 2.2-3115 and 2.2-3116 of the *Code of Virginia* **prior to taking office**, and annually thereafter by January 15 of each year. Forms are prescribed by the Secretary of the Commonwealth and should be available from the Clerk of the governing body. If the Clerk is unable to provide a copy, the form can be obtained from our website in our candidate forms section.

http://www.sbe.virginia.gov/cms/Cidate_Information/Cidate_Forms.html

The successful candidate in a *special election* is required by law to qualify and take the oath of office within thirty days of the election. Failure to so qualify creates a vacancy in the office.

XI. FREQUENTLY ASKED QUESTIONS

A. Who may circulate a candidate's petitions?

A candidate may circulate his own petitions but is not required to do so. A candidate's petitions may be circulated by any person who is, or who is eligible to be, a qualified voter of the County of Smyth. See Item IV D1. for details.

The circulator must affirm before a notary or other person authorized to administer oaths, that he **personally witnessed** the affixing of each signature. Falsely taking this affidavit is a felony under Virginia law. The circulator can **NEVER** leave the petition unattended, i.e., left on the counter at a grocery store, restaurant, etc.

B. I am circulating a petition for a candidate; may I also sign as a qualified voter the petition that I am circulating?

I am a Notary circulating petitions for a candidate; may I notarize the petition pages I circulate?

NO TO BOTH. The person circulating the petition must swear, under oath, that he **personally witnessed** the affixing of each signature on the petition and no person can witness his own signature.

C. I am a candidate and a Notary; may I notarize the petition pages circulated by other persons?

NO. § 47.1-30 of the *Code of Virginia* prohibits a notary from performing a notarial act on any document in which the notary or his spouse is a party, **or** in which either of them has a direct beneficial interest.

Any Notary who violates these provisions is considered guilty of official misconduct, may be removed from office and may be subject to other penalties.

XI. FREQUENTLY ASKED QUESTIONS (continued)

D. I work for the federal government; can I be a candidate?

Pursuant to the federal law commonly known as the Hatch Act, you may be a candidate in a **non-partisan election** or, if you live in the Cities of Alexandria, Fairfax, Falls Church, Manassas, Manassas Park or Portsmouth or in the Counties of Arlington, Fairfax, Loudoun, Prince William, Spotsylvania or Stafford, you may be an **Independent candidate for local office in a partisan election**. An election is considered partisan if any of the candidates for the office you would seek are nominated by a political party.

To determine whether you might also be affected by the rules and regulations of the agency for which you work, **contact your personnel officer**.

It should also be noted that most employees of the legislative branch of the federal government are not covered by the Hatch Act but may be affected by other rules and regulations.

E. I work for the state or a local government; can I be a candidate?

Some state and local government employees **are prohibited** from being candidates. You may be so prohibited if your Agency receives federal funds. **Contact the personnel officer where you work**. If necessary, present the facts of your case in writing, including the office you wish to seek, to the **Office of the Special Counsel**, 1730 M Street NW, Suite 300, Washington, D. C. 20036 or call them at either 800-872-9855 or 202-254-3600. That office will determine if you are affected by the Hatch Act.

Most state and local government employees are not prohibited by law from being a candidate. However, you may be affected by the rules and regulations of the agency or ordinances of the government for which you work. **Contact your personnel officer**.

F. What activities are permitted at the polls on election day?

Please refer to the Do's and Don'ts with Guidelines for Campaigners and Authorized Representatives published by the State Board of Elections. We suggest that you provide this information to any person who will either serve as your representative inside the polls or work for you outside the polls on election day.

http://www.sbe.virginia.gov/cms/Cidate_Information/Cidate_Bulletins_Forms.html