

PROPOSED BYLAW REVISIONS TO ELECTION PROCEDURES
FOR PRESIDENT-ELECT AND COUNCIL

The Membership Task Force of the Virginia State Bar (VSB) proposes that the VSB Bylaws be amended to permit the use of means, other than U.S. mail, for election notification and balloting. As of June 30, 2012, the VSB has 30,515 active members. In light of the large membership, the Membership Task Force was of the opinion that an online voting system for elections should be considered to increase the number of people who vote in Council and president-elect elections and to decrease costs. The proposed bylaw change will permit flexibility in the system, permitting the VSB to offer a choice between paper ballots and online ballots to their members. The proposed changes also include a provision that if a Council member changes their address of record from the jurisdiction they are representing, then a special election will be held for that vacancy, and deletes the provision for write-in Council candidates.

The following proposal is published for public comment, which should be submitted in writing to Karen A. Gould, Executive Director, Virginia State Bar, 707 E. Main Street, Suite 1500, Richmond, VA 23219 or gould@vsb.org, no later than the end of the business day on the day of the deadline.

Deadline: September 30, 2012.

PROPOSED BYLAW REVISIONS

BYLAWS PART I, ARTICLE III

Election of President-Elect

Sec. 1. Nominations. In order to qualify for election to the office of president-elect for the ensuing bar year, a candidate must be duly qualified as set forth in Paragraph 4 of the Rules of Court, Part Six, Section IV and must file a nominating petition with the executive director.

Sec. 2. Petition. The nominating petition shall be signed by at least 50 members of the Virginia State Bar and shall be signed by the candidate, who shall certify that he or she is qualified to run for the office. The nominating petition must be received by the executive director on or before October 1 of each year.

Sec. 3. Method of Election. In the event only one nominating petition is received by the executive director on or before October 1 of any year, the election for the office of president-elect shall be held at the next annual meeting in accordance with the provisions of Article IV, below.

In the event two or more nominating petitions are received by the executive director on or before October 1 of any year, the election of the president-elect will be in accordance with the provisions of Sections 4 and 5, below.

Sec. 4. ~~Mail~~-Ballots. In the event nominating petitions for two or more candidates are received by the executive director ~~on or before October 1 of any year~~, then:

(a) The executive director shall prepare a ballot which shall list in alphabetical order the names of those persons nominated to the office of president-elect.

(b) The ballot shall be ~~mailed~~ distributed by mail or made available by electronic means to all members on or before November 5. The form of the ballot and the procedure for distribution, the collection and tabulation of ballots shall be determined by the executive director.

(c) If any member fails to receive a ballot within ten (10) days of ~~mailing~~ distribution, or by November 15, whichever is ~~later~~ earlier, the intended recipient shall be given a replacement ballot upon executing an affidavit, in a form to be prescribed by the Executive Committee, averring (i) that no ballot has been received and (ii) that in the event the original ballot is subsequently received, it will promptly be returned unmarked to the executive director. The affidavit and request for a replacement ballot must be received by the executive director not later than November 22, and the replacement ballot must be returned to the executive director by ~~the~~ December 1 ~~deadline~~.

(d) If any member receives more than one ballot, he or she shall return the excess ballot or ballots, unmarked, to the executive director in the same envelope provided for return of his or her marked ballot.

Sec. 5. ~~Mail~~-Ballot Elections. The ballots shall be collected and counted in a manner which assures the confidentiality of the members' votes. A plurality of the votes cast by all members shall elect. No ballot received by the executive director after December 1 shall be counted.

Sec. 6. General Provisions. The following provisions shall be applicable to any election of the president-elect under this Article III.

(a) For purposes of these provisions, a "member" is an active member in good standing of the Virginia State Bar. Only such person may nominate, be nominated, vote or be elected in any election for the office of president-elect.

(b) Records maintained by the executive director as to membership and good-standing status shall be controlling.

(c) The failure to comply with the dates designated for the occurrence or ~~f~~ completion of certain acts shall not invalidate any election, unless substantial prejudice can be shown to have resulted therefrom.

(d) For purposes of determining voter and candidate eligibility, the membership list maintained by the executive director as of October 1 shall be controlling. Except to correct clerical errors in

records maintained as of that date, no revisions or additions to the membership list for purposes of the election shall be made after October 1.

(e) The executive director shall announce to the bar the results of the election for the office of president-elect ~~in a newsletter, magazine or other mailing to the bar, after the election.~~

(f) Any responsibility assigned herein to be discharged by the executive director may be assumed and discharged by the Executive Committee, at its discretion.

(g) Any challenge to an election shall be resolved by a committee which shall be chaired by the president and shall include the president-elect, the immediate past president and two members of Council appointed by the president who shall not be current members of the Executive Committee.

ARTICLE IV

Meetings

Sec. 1. The Secretary shall give thirty days' notice ~~by mail~~ of annual meetings of the bar, and such ~~written~~ notice of special meetings of the bar as the Executive Committee shall prescribe in its call. Meetings of the organization shall be held at such times and places and after such notices as may be prescribed by the appropriate provisions of Section IV, Rules of the Supreme Court for the Integration of the Virginia State Bar and Council Bylaws.

Sec. 2. A quorum at any such meeting shall be as set forth in the Court Rules.

Sec. 3. The program and order of business at any meeting of the Virginia State Bar, unless otherwise ordered by the Council, shall be determined by the president in consultation with the president-elect and the executive director.

Sec. 4. Proceedings at any such meeting shall be governed by Roberts Rules of Order, except that no member shall without unanimous consent speak more than twice on any one subject nor more than five minutes at any one time.

Sec. 5. Voting at any such meeting shall be viva voce with each active member present entitled to vote, unless at least ten active members shall either before or immediately after such vote demand a vote by judicial circuits on a roll called in numerical order. In the latter event, each circuit shall be entitled to one vote for each twenty-five active members or fraction of twenty-five registered in that circuit. When a vote by circuits is ordered, the active members present from each circuit shall cast the entire vote to which such circuit is entitled. If there be a division among the active members present from any circuit as to how the vote of such circuit shall be cast, the vote of such circuit shall be divided and cast in proportion to the vote on such division, unless such circuit at a meeting of its members shall have adopted and caused to be certified to

the Secretary a resolution providing that the entire vote of such circuit shall be cast as a majority of the active members from that circuit present and voting shall determine.

Provided, however, that in any election for the office of president-elect, voting shall be viva voce unless more than one candidate shall be duly nominated, in which event voting shall be by ~~written ballot by judicial circuits~~ as provided in Article III above.

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PART II — BYLAWS OF THE COUNCIL

ARTICLE I

Members

The Council is comprised of attorneys elected or appointed in accordance with applicable provisions of Section IV, Rules of the Supreme Court for the Organization and Government of the Virginia State Bar.

ARTICLE II

Election of Council

The election of members of Council for each circuit shall be by one of the two following methods.

Sec. 1. Circuit Bar Meeting. Prior to March 1 of any year in which a Council member from the circuit is to be elected, the executive director shall notify the Chief Judge of the circuit of the need for a meeting of the bar of the circuit and the number of vacancies to be filled. The executive director shall obtain from the Chief Judge the date and location for a meeting of the members of the circuit which shall be held prior to May 1. The executive director shall give at least fourteen days ~~mail a written~~ notice to the members of the meeting ~~at least 14 days before such meeting~~.

All members whose Virginia State Bar membership mailing addresses are maintained in the circuit may attend and vote at the meeting. A quorum shall consist of those members who vote at the meeting. No member shall vote by proxy. Prior to the meeting, the executive director shall transmit to the Chief Judge or the designated presiding officer a list of the members whose names appear on the membership roster for such circuit. The Chief Judge shall either preside at the meeting, designate another active or retired judge of the circuit to preside, or designate an attorney to preside who is neither a candidate for election to Council nor associated in the practice of law with a candidate nominated for election.

At the circuit meeting, any member eligible to vote in the circuit who is not then serving a second successive full term on Council shall be eligible for election. Nominations may be made

at the circuit meeting or by any member eligible to vote in the circuit. No supporting petition or second for such nomination will be required. After the nominations are closed, an election by written ballot shall be conducted. In the event of a tie vote, the winner shall be chosen by lot drawn by the presiding judge or his designee.

Within ten days after the meeting, the presiding officer or the Chief Judge shall communicate the names of the person or persons elected to the executive director.

Sec. 2. ~~Mail~~-Ballot. On or about March 1, the executive director shall cause to be ~~mailed~~distributed by mail or electronic means to every member eligible to vote in the circuit a notice of any vacancy or vacancies on Council, and a brief description of the method of nomination and voting. All members whose Virginia State Bar membership mailing addresses are maintained in the circuit are eligible to vote.

Nominations for election to Council shall be by petition filed by the candidate with the executive director. Such petition shall be signed by not fewer than ten other members eligible to vote in the circuit, and shall be accompanied by a statement of qualifications not exceeding one hundred and fifty words. Nominations must be filed in the office of the executive director on or before April 1. Any petition failing to comply with these requirements shall be rejected.

On or before April 15, the executive director shall ~~mail~~distribute by mail or electronic means to all eligible members of the circuit a ballot containing the names of all persons nominated, along with each nominee's statement of qualifications.

The form of the ballot and the procedure for distribution, collection and tabulation of ballots shall be determined by the executive director. ~~Ballots shall be in a form prescribed by the executive director and shall be collected and counted in a manner prescribed by the executive director.~~ In the event of a tie vote, the executive director shall pick the winner by lot. No ballot received by the executive director after May 1 shall be counted.

~~Write-in votes shall be permitted, but the executive director may exclude illegible write-in votes.~~ In those instances where there are more candidates for Council positions than there are positions to be filled from the circuit, the ballot will contain instructions to vote only for the same number of persons as there are positions to be filled; ballots which do not conform to this requirement will not be counted.

Sec. 3. General Provisions. The following provisions shall be applicable to both methods of election:

(a) The timeline for special elections to fill vacancies on Council shall be determined by the executive director.

(b) For purposes of these provisions, a "member" is an active member in good standing of the Virginia State Bar. Only such person may nominate, be nominated, vote or be elected in any Council election.

(c) Records maintained by the executive director as to membership, good-standing status and assignment of a member to a particular circuit shall be controlling.

(d) The failure to comply with the dates designated for the occurrence or completion of certain acts shall not invalidate any election unless substantial prejudice can be shown to have resulted therefrom.

(e)

1) In all elections the candidate receiving the highest number of votes shall be elected.

2) In the event that more than one full term is to be filled by a circuit at any single election, the candidates receiving the highest number of votes shall be elected.

3) In the event that a regular election and special election to fill an unexpired term are held simultaneously in the same circuit, they shall be conducted as a single election and the successful candidate receiving the highest number of votes shall be entitled to choose either a regular term or the unexpired term, with the choice passing down in order until the unexpired term is selected. The successful candidate(s) receiving the lower number of votes shall be elected to fill the term(s) not chosen. In the event two or more unexpired terms are to be filled in the same election, the longer unexpired term(s) shall go to the successful candidate(s) receiving the highest number of votes who choose(s) to fill an unexpired term.

4) As a part of the election process in each circuit under these bylaws, the voting members of the circuit shall prescribe the method for that circuit's next election and, in the event of a meeting, shall determine the length of time during which ballots may be cast in the next election, not to exceed one business day. A vote to change the method of election shall be by majority of votes cast. The ballot in each circuit's election shall provide a space for the voting member to indicate a preference for one of the two election methods described by these bylaws. For the meeting method, the ballot shall also provide a space to indicate whether voting shall be allowed all day, half day or only during the meeting. No quorum call shall be required for any meeting.

5) For purposes of determining voter and candidate eligibility, the membership list maintained by the executive director as of March 15 shall be controlling. Except to correct clerical errors in records maintained as of that date, no changes in circuit membership, revisions or additions to the membership list for purposes of the election shall be made after March 15.

6) The executive director shall announce to the bar the results of the election for the office of president-elect ~~in a newsletter, magazine or other mailing to the bar, after the election.~~

7) Any challenge to an election shall be resolved by a committee which shall be chaired by the president and shall include the president-elect, the immediate past president, and two members of Council appointed by the president who shall not be current members of the Executive Committee.

8) Should a member of Council change his or her address of record from the circuit he or she represents, his or her seat shall be declared vacant. A vacancy among the elected members of Council shall be cause for a special election to occur for the unexpired term of the vacant seat.