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Board of Elections Wants Electoral Candidates Who Work For Government To Take 60-Day Leave Prior to Elections

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The V.I. Board of Elections supports legislation that will be presented in the Senate today which aims to tweak the rules surrounding a government employee's potential run for political office.

Board members heard from Elections Supervisor Caroline Fawkes, who said that her management team met to discuss Bill 35-0032, and generally supported the measure. However, they came up with some recommended amendments which she presented first to the board for approval before approaching the Legislature.

Because federal legislation requires states to send absentee ballots to certain voters at least 45 days before an election, "the voting process begins way before early voting" officially begins, Ms.

Fawkes argued. “We will not support candidates on the job while this voting process has begun,” she declared. Therefore, instead of candidates employed in the public sector being required to take leave at the start of the official early voting period, the Elections System recommended that this requirement take effect 60 days prior to the start of early voting. “This has been a discussion for the last four years,” Ms. Fawkes reminded board members.

Federal employees, however, or local government employees who work in connection with federally-funded programs, must resign their posts altogether if they wish to run for office. Ms. Fawkes explained that federally-funded positions are subject to the strictures of the Hatch Act., a 1939 law passed “to ensure that federal employees advance based on merit and not based on political affiliation,” said Ms. Fawkes, as well as protecting them from “political coercion” while on the job.

The second recommended amendment discussed would add additional layers of oversight to a clause which proposes enforced leave for a government employee whose ability to perform their duties without the interference of politics is being compromised by their candidacy. Ms. Fawkes said that her team’s tweak would require the employee’s supervisor to submit a petition to the Public Employees Relations Board (PERB) on the matter, including a notarized statement “detailing the reasons for a disciplinary action.” The employee in question would then have the opportunity to submit their own sworn statement to the PERB in response. A decision within three days would be publicized if favorable to the employee. A finding against the employee would have disciplinary repercussions including a 60-day no-pay suspension, a fine, or termination.

While generally supportive of the draft legislation, board members expressed differing opinions of the proffered amendments. Board member Raymond Williams said that the inclusion of the PERB in the disciplinary process governing employees whose candidacy impacts their job performance would be “overreach” and an “overstep.” The proposed measure as written, where the supervisor of the employee in question makes the determination, is sufficient, he argued. Additionally, he does not believe that the PERB would be the appropriate agency to perform that role. “I think we just need to stick with what is spoken to,” he said. Kareem Francis agreed, saying that managers and employees should both be aware of when an employee’s candidacy begins to impinge on the performance of their duties.

Member Lydia Hendricks supported the inclusion of a neutral third-party in the decision-making process, albeit not necessarily the PERB. However, Harriet Mercer agreed with Mr. Williams and Francis, in that the legislation as currently drafted was best. Apart from her reluctance to enforce any leave requirements unless a violation of the candidacy rules has been proven, she said that the 60-day leave-taking period was “too predatory.” Florine Hassell concurred, saying that the 60-day timeframe was too restrictive. “I think right before the primary election is good, because when I think of it the private sector doesn’t have all of this restriction like the government does.” Although private sector entities do not work for the public or control public funds, Ms. Hassell opined that the same rules should apply for electoral candidates with government jobs as those working in the corporate sector.

Board chair Alecia Wells, however, was in favor of keeping the 60-day stipulation. “I know how it’s been with getting the mail out,” she said.

Ultimately, the board voted to approve the change that would now require government employees who become electoral candidates to take leave from their jobs 60 days prior to an election in which they plan to participate.

Elections officials are expected to testify before the Senate Committee on Rules and Judiciary in

support of Bill 35-0032, while urging lawmakers to adopt the recommended amendment.

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