



# COMMONWEALTH of VIRGINIA

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October 28, 2025

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The Honorable Terry G. Kilgore  
Virginia House of Delegates  
General Assembly Building, Room 1007  
201 North Ninth Street  
Richmond, Virginia 23219

Dear Delegate Kilgore:

I am responding to your request for an official advisory Opinion in accordance with § 2.2-505 of the *Code of Virginia*.

## Issue Presented

You inquire, for purposes of Article XII, § 1 of the Constitution of Virginia, when the “next general election of members of the House of Delegates” is to occur.

## Response

It is my opinion that, as of the date of this Opinion, for purposes of Article XII, § 1, the “next general election” for electing the House of Delegates will occur in 2027.

## Applicable Law and Discussion

Article XII, § 1 of the Constitution of Virginia governs the process for amending Virginia’s Constitution. It provides, in full, as follows:

Any amendment or amendments to this Constitution may be proposed in the Senate or House of Delegates, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, the name of each member and how he voted to be recorded, and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates. If at such regular session or any subsequent special session of that General Assembly the proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the voters qualified to vote in elections by the people, in such manner as it shall prescribe and not sooner than ninety days after final passage by the General Assembly. If a majority of those voting vote in favor of any amendment, it shall become part of the Constitution on the date prescribed by the General Assembly in submitting the amendment to the voters.<sup>[1]</sup>

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<sup>1</sup> VA. CONST. art. XII, § 1. *See also* VA. CODE ANN. § 30-19 (2018).

“[S]trict compliance with these mandatory provisions is required in order that all proposed constitutional amendments shall receive the deliberate consideration and careful scrutiny that they deserve.”<sup>2</sup> You inquire regarding the requirement that the resolution approving a proposed amendment be “referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates.”

“It is a general rule that the words of a Constitution are to be understood in the sense in which they are popularly employed, unless the context or the very nature of the subject indicates otherwise.”<sup>3</sup> Thus, “we are guided by the principle that the Constitution was written to be understood by the voters;”<sup>4</sup> and “[w]hen constitutional language is clear and unambiguous, a court must give the language its plain meaning . . . .”<sup>5</sup> As such, “[t]he same rules which govern the construction of statutes[] are applicable to the construction of constitutions, and the meaning and purpose of [a section] are to be elicited from the terms employed therein, if possible, calling to our aid the ordinary rules of grammar.”<sup>6</sup> Constitutional provisions “should be interpreted so as to carry out the general principles of the government and not defeat them.”<sup>7</sup>

Article XII, § 1 clearly contemplates that there will be an intervening general election between the proposal of the amendment by one General Assembly and the referral of the amendment to the subsequent General Assembly.<sup>8</sup> As commonly understood, a “general election” is “[a]n election that occurs at a regular interval of time” or “[an] election for all seats, as contrasted with a [special] election.”<sup>9</sup> An election is “[t]he *process* of selecting a person to occupy an office . . . .”<sup>10</sup>

Under Virginia law, the entire membership of Virginia House of Delegates is elected every two years, in odd-numbered years, for terms beginning in the following even-numbered year.<sup>11</sup> In accordance with law, Virginia voters are currently casting their ballots for the candidates they prefer to represent them as delegates for the term that begins in 2026—and have been doing so for weeks.<sup>12</sup>

A regular session of the General Assembly will commence January 14, 2026.<sup>13</sup> Although November 4, 2025 is an election *day* in the Commonwealth it, standing alone, does not constitute the “next general election”

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<sup>2</sup> *Coleman v. Pross*, 219 Va. 143, 154 (1978).

<sup>3</sup> *Old Dominion Comm. for Fair Util. Rates v. State Corp. Comm’n*, 294 Va. 168, 185 (2017) (quoting *Howell v. McAuliffe*, 292 Va. 320, 368 (2016)).

<sup>4</sup> *Id.* (quoting *District of Columbia v. Heller*, 554 U.S. 570, 576-77 (2008)).

<sup>5</sup> *Scott v. Commonwealth*, 247 Va. 379, 384 (1994).

<sup>6</sup> *Moore v. Pullem*, 150 Va. 174, 195-96 (1928) (internal citations omitted).

<sup>7</sup> *Id.* at 194.

<sup>8</sup> See *Coleman*, 219 Va. at 154 (“Under the unambiguous language of Article XII, Section 1, if any constitutional amendments are proposed in one house, ‘the same’ must be agreed to by a majority of the members elected to each house, referred to the next regular session after the *intervening* general election of House of Delegates members, agreed to by a majority of the members elected to each house, and submitted to the qualified voters.” (emphasis added)). See A.E. DICK HOWARD, II COMMENTARIES ON THE CONSTITUTION OF VIRGINIA 1170 (referring to the constitutional requirement as an “intervening election”).

<sup>9</sup> BLACK’S LAW DICTIONARY 655 (11th ed. 2019). See also WEBSTER’S SEVENTH NEW COLLEGIATE DICTIONARY 348 (1963) (defining “general election” as “an election usu[ally] held at regular intervals in which candidates are chosen in all or most constituencies of a nation or state”).

<sup>10</sup> BLACK’S LAW DICTIONARY, *supra*, at 654 (emphasis added). See also WEBSTER’S SEVENTH NEW COLLEGIATE DICTIONARY, *supra*, at 266 (defining “election” as “an act or process of electing”).

<sup>11</sup> See VA. CONST. art. IV, § 3; VA. CODE ANN. § 24.2-215 (2023).

<sup>12</sup> See VA. CODE ANN. § 24.2-701.1(A) (2023).

<sup>13</sup> See VA. CONST. art. IV, § 6.

under Article XII, § 1.<sup>14</sup> Under current Virginia law, the election voting process in Virginia spans 45 days.<sup>15</sup> The closing of the polls on November 4, 2025 will be the culmination of the ongoing election process, which commenced September 19, 2025.<sup>16</sup> Because “[t]he term ‘next’ has reference to that which comes after[.]”<sup>17</sup> it does not refer to an event that is in progress.<sup>18</sup> Accordingly, because a general election of delegates is already underway, the November 4th culmination of this 2025 election cannot be deemed to be the “*next* general election.”<sup>19</sup> It is the current general election.

I therefore conclude that the next general election of the members of the House of Delegates for purposes of amending Virginia’s Constitution will be in 2027, two years from the ongoing 2025 general election. Accordingly, only those proposed constitutional amendments that were approved prior to September 19, 2025, are ones that can be referred to the regular session that begins in January 2026.<sup>20</sup>

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<sup>14</sup> The conceivably narrower definition of “general election” provided in Code § 24.2-101 does not control here. Not only is this definition limited to the term “[a]s used in [Title 24.2]” and only applies “unless the context requires a different meaning,” VA. CODE ANN. § 24.2-101 (Supp. 2025), but a statute also cannot alter, redefine, or supersede a constitutional provision. *See* AGCS Marine Ins. Co. v. Arlington Cnty., 293 Va. 469, 478 n.4 (2017) (noting that a statutory definition of “public uses” for purposes of acquiring property through eminent domain did not “limit[] inverse condemnation liability for damage to personal property” under Article I, § 11 of the Virginia Constitution). *Cf.* WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY (Unabridged) 732 (separately defining “election” and “election day”).

<sup>15</sup> VA. CODE ANN. § 24.2-701.1(A).

<sup>16</sup> *Cf.* Pierce v. N.C. State Bd. of Elections, 97 F.4th 194, 226-27 (4th Cir. 2024) (noting, in the context of the 2024 North Carolina Senate primary election, that the election was “underway” and stating that, with early voting occurring, “[t]he election is not merely ‘close[.]’ or even ‘imminen[t]’—it is happening right now” (alteration in original) (quoting Purcell v. Gonzalez, 549 U.S. 1, 5 (2006))); Wise v. Circosta, 978 F.3d 93, 96 (4th Cir. 2020) (describing, in October 2020, the 2020 North Carolina general election, which allowed for early voting beginning October 15, 2020, as “an ongoing election”); New Georgia Project v. Raffensperger, 976 F.3d 1278, 1283 (11th Cir. 2020) (noting, in October 2020, that “we are not on the eve of the election—we are in the middle of it, with absentee ballots already printed and mailed”); Texas All. for Retired Americans v. Hughs, 976 F.3d 564, 567 (5th Cir. 2020) (equating eighteen days before the start of mid-October early voting with “the eve of an election”); 2021 Op. Va. Att’y Gen. 63, 66 (concluding that “locations . . . that are used as the designated location for early voting are considered ‘polling places’” for purposes of the firearm restriction imposed under § 24.2-604(A)(iv)).

<sup>17</sup> United States v. Fisher, 151 F. Supp. 607, 608 (E.D. Wis. 1957) (quoting Gandy v. Thomas, 66 S.W.2d 449, 450 (Tex. Civ. App. 1933)). *See also* Osborn v. Rogers, 19 N.J. Eq. 429, 431 (Prerog. Ct. 1868) (equating “next” and “subsequent”); Exch. Bank of Oakfield v. Odum, 90 S.E. 977 (Ga. 1916) (giving effect to “the word ‘next,’ which means ‘in the nearest time,’ ‘just after,’ ‘immediately following’”).

<sup>18</sup> *See, e.g.,* Gandy, 66 S.W.2d at 450-51 (“The ‘next term’ of the county court . . . is not thought to mean the ‘current term’ then in session . . .”); Heywood v. Georgia, 54 S.E. 187, 187 (Ga. 1906) (rejecting the argument “that ‘next’ means nearest, and that the nearest term is the one already in session” because “[t]his is a strained interpretation of the legislative intent, which we do not feel authorized to follow”); State v. Breaw, 78 P. 896, 896 (Or. 1904) (stating that the phrase “the next term of the court” as used in a statute “clearly means the next following term, and not the current one”); Fisher, 151 F. Supp. at 608 (holding that “the word ‘next’ as used in the statute means the first grand jury summoned and impaneled after the filing of the complaint, and not the one then in session”); Schrom v. Cramer, 275 P.2d 979, 981-82 (Idaho 1954) (“[T]he phrase ‘the next term of the court’ . . . excludes the term of court then current and means the next ensuing term.”); Palka v. Walker, 198 A. 265, 266 (Conn. 1938) (“The word ‘next’ . . . does not refer to a session of the General Assembly in existence . . . but to one which begins thereafter.”).

<sup>19</sup> *See* Howard, *supra*, at 1172 (“A proposed amendment, once agreed to by the Assembly, must then be referred to its first regular session held after the next *ensuing* general election of members of the House of Delegates.” (emphasis added)).

<sup>20</sup> I am aware of several prior Opinions of this Office addressing the application of Article XII, § 1. *See, e.g.,* 1981-82 Op. Va. Att’y Gen. 83; 1981-82 Op. Va. Att’y Gen. 84; 1981-82 Op. Va. Att’y Gen. 85; 1983-84 Op. Va. Att’y Gen. 53; 1983-84 Op. Va. Att’y Gen. 173. The conclusions those Opinions reach are based on the specific facts existing and presented at the time. Significantly, they all predate the adoption of the current 45-day voting process. *See* 2019 Va. Acts ch. 668. None counsels a different conclusion than the one stated herein.

The Constitution of Virginia is built on the foundation that “all power is vested in, and consequently derived from, the people,” and it therefore ensures that elected officials remain accountable and “at all times amenable to [the people].”<sup>21</sup> The conclusion of this Opinion promotes accountability to the people, for prior to casting their votes in the election, the voters will be able to review incumbent delegates’ votes on any proposed amendments, which Article XII requires to be recorded by name.<sup>22</sup> Although not dispositive, statements made during the debates on the current Constitution support this view. As explained by one Senator, “[t]he people elect the members of the General Assembly. Section 1 of [Article XII] provides, as do the provisions of the current Constitution, that an election must intervene before the General Assembly can act again.”<sup>23</sup> As stated by a member of the House of Delegates, the mandated intervening election serves to “get the sentiment of the people on an amendment [the delegates] had acted on previously.”<sup>24</sup>

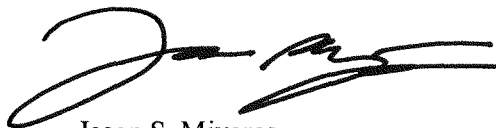
Virginia law explicitly expresses this underlying policy elsewhere; by statute, circuit court clerks must post notice of any proposed amendment “not later than three months prior to the next ensuing general election of members of the House of Delegates.”<sup>25</sup> Allowing an amendment proposed while a general election is underway to be referred for consideration during the following regular session—here the 2026 regular session—undermines the voice of Virginia voters in the amendment process and violates foundational principles of Virginia constitutional law.<sup>26</sup> The current 2025 general election, therefore, cannot serve as the constitutionally required intervening election for any constitutional amendments proposed after September 19, 2025.

### Conclusion

Accordingly, it is my opinion that, as of the date of this Opinion, for purposes of Article XII, § 1, the “next general election” for electing the House of Delegates will occur in 2027.

With kindest regards, I am

Very truly yours,

A handwritten signature in black ink, appearing to read 'Jason S. Miyares', with a stylized flourish at the end.

Jason S. Miyares  
Attorney General

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<sup>21</sup> VA. CONST. art. I, § 2.

<sup>22</sup> “The constitution must be viewed and construed as a whole . . . .” *Carlisle v. Hassan*, 199 Va. 771, 776 (1958) (citing *Barbour v. Grimsley*, 107 Va. 814 (1907)).

<sup>23</sup> PROCEEDINGS AND DEBATES OF THE SENATE OF VIRGINIA PERTAINING TO AMENDMENT OF THE CONSTITUTION, p. 100 (1971).

<sup>24</sup> PROCEEDINGS AND DEBATES OF THE VIRGINIA HOUSE OF DELEGATES PERTAINING TO AMENDMENT OF THE CONSTITUTION, p. 498 (1971).

<sup>25</sup> VA. CODE ANN. § 30-13 (2018).

<sup>26</sup> See also VA. CONST. art. XII, § 2 (requiring qualified voters to approve constitutional revisions proposed via constitutional convention).