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SENATE BILL NO. 105

Offered January 9, 2008

Prefiled January 3, 2008

A BILL to amend the Code of Virginia by adding in Chapter 3 of Title 24.2 an article numbered 1.1, consisting of sections numbered 24.2-301.2 through 24.2-301.7, relating to preparation of and standards for state legislative and congressional redistricting plans; establishment of a temporary redistricting advisory commission.

 Patron—Cuccinelli

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Chapter 3 of Title 24.2 an article numbered 1.1, consisting of sections numbered 24.2-301.2 through 24.2-301.7 as follows:

*Article 1.1.**General Assembly and Congressional Redistricting Plans.**§ 24.2-301.2. Definitions.**As used in this article, unless the context requires otherwise:*

"Appointing authorities" means the four members of the Senate and House of Delegates designated one each by each Senate caucus and each House caucus of the two political parties having the most members in the Senate and House, respectively.

"Chief election officer" means the Secretary of the State Board of Elections.

"Commission" means the temporary redistricting advisory commission established pursuant to this article.

"Division" means the Division of Legislative Services.

"Federal census" means the decennial census required by federal law to be conducted by the United States Bureau of the Census in every year ending in zero.

"Partisan public office" means (i) an elective or appointive office in the executive or legislative branch or in an independent establishment of the federal government; (ii) an elective office in the executive or legislative branch of the government of the Commonwealth, or an office that is filled by appointment and is exempt from the Virginia Personnel Act (§ 2.2-2900 et seq.); or (iii) an office of a county, city, or other political subdivision of the Commonwealth that is filled by an election process involving nomination and election of candidates on a partisan basis.

"Plan" means a bill for legislative and congressional redistricting drawn up pursuant to the requirements of this article.

"Political party office" means an elective office in the national or state organization of a political party, as defined by § 24.2-101.

"Relative" means an individual who is related to the person in question as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother or half-sister.

§ 24.2-301.3. Preparations for redistricting.

A. The Division shall acquire appropriate information, review and evaluate available facilities, and develop programs and procedures in preparation for drawing legislative and congressional redistricting plans on the basis of each federal census. Funds shall be expended for the purchase or lease of equipment and materials only with prior approval of the Joint Reapportionment Committee established pursuant to § 30-263.

B. By December 31 of each year ending in zero, the Division shall obtain from the United States Bureau of the Census information regarding geographic and political units in this Commonwealth for which federal census population data has been gathered and will be tabulated. The Division shall use the data so obtained to:

1. Prepare necessary descriptions of geographic and political units for which census data will be reported and that are suitable for use as components of legislative and congressional districts.

2. Prepare maps of counties, cities and other geographic units within the Commonwealth, which may be used to illustrate the locations of district boundaries proposed in plans drawn in accordance with § 24.2-301.5.

3. As soon as possible after January 1 of each year ending in 1, the Division shall obtain from the United States Bureau of the Census the population data needed for legislative and congressional

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59 redistricting, which the Bureau is required to provide the Commonwealth under United States Public
60 Law 94-171, and shall use that data to assign a population figure based upon certified federal census
61 data to each geographic or political unit described pursuant to subdivision 1. Upon completing that
62 task, the Division shall begin the preparation of legislative and congressional redistricting plans as
63 required by § 24.2-301.4.

64 § 24.2-301.4. Timetable for preparation of plan.

65 A. Not later than April 1 of each year ending in one, the Division shall deliver to the Clerks of the
66 Senate and House of Delegates identical bills embodying a plan of legislative and congressional
67 redistricting prepared in accordance with § 24.2-301.5. The General Assembly shall bring the bill to a
68 vote in either the Senate or the House of Delegates expeditiously and not less than seven days after the
69 report of the commission required by § 24.2-301.7 is received and made available to the members of the
70 General Assembly, under a procedure or rule permitting no amendments except those of a purely
71 corrective nature. Once the bill is approved by the first house in which it is considered, it shall
72 expeditiously be brought to a vote in the second house under a similar procedure or rule.

73 B. If the bill embodying the plan submitted by the Division under subsection A fails to be approved
74 by a constitutional majority in either the Senate or the House of Delegates, the Clerk of the Senate or
75 House, as the case may be, shall at once transmit to the Division information that the Senate or House
76 may direct regarding reasons why the plan was not approved. The Division shall prepare a bill
77 embodying a second plan of legislative and congressional redistricting prepared in accordance with
78 § 24.2-301.5, and taking into account the reasons cited by the Senate or House for its failure to approve
79 the plan insofar as it is possible to do so within the requirements of § 24.2-301.5. If a second plan is
80 required under this subsection, the bill embodying it shall be delivered to the Clerks of the Senate and
81 House not later than May 1 of the year ending in one, or 14 days after the date of the vote by which
82 the Senate or the House fails to approve the bill submitted under subsection A, whichever date is later.
83 It is the intent of this article that, if it is necessary to submit a bill under this subsection, the bill be
84 brought to a vote not less than seven days after the bill is printed and made available to the members
85 of the General Assembly, in the same manner as prescribed for the bill required under subsection A.

86 C. If the bill embodying the plan submitted by the Division under subsection B fails to be approved
87 by a constitutional majority in either the Senate or the House, the same procedure as prescribed by
88 subsection B shall be followed. If a third plan is required under this subsection, the bill embodying it
89 shall be delivered to the Clerks of the Senate and House not later than June 1 of the year ending in
90 one, or 14 days after the date of the vote by which the Senate or House fails to approve the bill
91 submitted under subsection B, whichever date is later. If it is necessary to submit a bill under this
92 subsection, the bill shall be brought to a vote within the same time period after its delivery to the Clerks
93 of the Senate and House as is prescribed for the bill submitted under subsection B, but the bill shall be
94 subject to amendment in the same manner as other bills.

95 D. Notwithstanding subsections A, B, and C:

96 1. The Division may determine that the time constraints for preparing a legislative redistricting plan
97 prior to the November general election of the year ending in one warrant the preparation of separate
98 legislative and congressional redistricting plans. In such case it shall inform the presiding officers of the
99 Senate and House. If the presiding officers so direct, the Division shall prepare a separate bill
100 establishing legislative districts and submit it separately from the bill establishing congressional
101 districts. It is the intent of this article that the General Assembly shall proceed to consider the
102 legislative redistricting bill in substantially the manner prescribed by subsections A, B, and C.

103 2. If the population data for legislative redistricting that the United States Bureau of the Census is
104 required to provide the Commonwealth under United States Public Law 94-171 and, if used by the
105 Division, the corresponding topologically integrated geographic encoding and referencing data file for
106 that population data, are not available to the Division on or before February 1 of the year ending in
107 one, the dates set forth in this section shall be extended by a number of days equal to the number of
108 days after February 1 of the year ending in one that the federal census population data and the
109 topologically integrated geographic encoding and referencing data file for legislative redistricting
110 become available.

111 § 24.2-301.5. Redistricting standards.

112 A. Legislative and congressional plans shall comply with Virginia and federal constitutional
113 requirements and the federal Voting Rights Act.

114 B. Legislative and congressional districts shall be established on the basis of population.

115 1. Senate and House of Delegates districts, respectively, shall each have a population as nearly
116 equal as practicable to the ideal population for such districts, determined by dividing the number of
117 districts to be established into the population of the Commonwealth reported in the federal decennial
118 census. Senate and House of Delegates districts shall not vary in population from the respective ideal
119 district populations except as necessary to comply with one of the other standards enumerated in this
120 section. In no case shall the quotient, obtained by dividing the total of the absolute values of the

deviations of all district populations from the applicable ideal district population by the number of districts established, exceed 1 percent of the applicable ideal district population. No Senate district shall have a population that exceeds that of any other Senate district by more than 5 percent, and no House of Delegates district shall have a population that exceeds that of any other House of Delegates district by more than 5 percent.

2. Congressional districts shall each have a population as nearly equal as practicable to the ideal district population, derived as prescribed in subdivision 1. No congressional district shall have a population that varies by more than 1 percent from the applicable ideal district population.

3. If a challenge is filed alleging excessive population variance among districts established in a plan adopted by the General Assembly, the General Assembly has the burden of justifying any variance in excess of 1 percent between the population of a district and the applicable ideal district population.

C. Districts shall be composed of compact and contiguous territory in compliance with the requirements of Article II, Section 6 of the Constitution of Virginia. Areas that meet only at the points of adjoining corners are not contiguous.

D. All districts shall maintain the core geographical areas of existing districts to the extent practicable and not in conflict with the standards set out in subsections A, B, and C.

E. To the extent consistent with subsections A, B, C, and D, district boundaries shall coincide with the boundaries of political subdivisions of the Commonwealth. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous.

F. No district shall be drawn for the purpose of favoring a political party, incumbent legislator or member of Congress, or other person or group, or for the purpose of augmenting or diluting the voting strength of a language or racial minority group. In establishing districts, no use shall be made of any of the following data:

1. Addresses of incumbent legislators or members of Congress.
2. Political affiliations of registered voters.
3. Previous election results.
4. Demographic information, other than population head counts, except as required by the Constitution and the laws of the United States.

§ 24.2-301.6. Temporary redistricting advisory commission.

A. Not later than February 1 of each year ending in one, a five-member temporary redistricting advisory commission shall be established as provided by this section. The commission's only functions shall be those prescribed by § 24.2-301.7.

1. Each of the four appointing authorities shall certify to the chief election officer the authority's appointment of a person to serve on the commission. The certifications may be prior to the commencement of the regular session for the year ending in one.

2. Within 20 days after the four appointing authorities have certified their respective appointments to the commission, but in no event later than February 1 of the year ending in one, the four commission members so appointed shall select, by a vote of at least three members, and certify to the chief election officer the fifth commission member, who shall serve as chairperson.

3. A vacancy on the commission shall be filled by the initial appointing authority within 10 days after the vacancy occurs.

4. Members of the commission shall receive compensation as provided in § 30-19.12 and shall be reimbursed for all reasonable and necessary expenses incurred in the discharge of their duties as provided in § 2.2-2825.

B. No person shall be appointed to the commission who:

1. Is not a qualified voter of the Commonwealth at the time of selection.
2. Holds partisan public office or political party office.
3. Is a relative of or is employed by a member of the General Assembly or of the United States Congress, or is employed directly by the General Assembly or by the United States Congress.

§ 24.2-301.7. Duties of commission.

The duties of the commission shall be as follows:

1. If, in preparation of plans as required by this article, the Division is confronted with the necessity to make any decision for which no clearly applicable guideline is provided by § 24.2-301.5, the Division may submit a written request for direction to the commission.

2. Prior to delivering any plan and the bill embodying that plan to the Clerks of the Senate and House in accordance with § 24.2-301.4, the Division shall provide to persons outside the Division staff only such information regarding the plan as may be required by policies agreed upon by the commission. This subdivision does not apply to population data furnished to the Division by the United States Bureau of the Census.

3. Upon each delivery by the Division to the General Assembly of a bill embodying a plan, pursuant

182 to § 24.2-301.4, the commission shall at the earliest feasible time make available to the public the
183 following information:

- 184 a. Copies of the bill delivered by the Division to the General Assembly.
- 185 b. Maps illustrating the plan.
- 186 c. A summary of the standards prescribed by § 24.2-301.5 for development of the plan.
- 187 d. A statement of the population of each district included in the plan, and the relative deviation of
188 each district population from the ideal district population.

189 4. Upon the delivery by the Division to the General Assembly of a bill embodying an initial plan, as
190 required by subsection A of § 24.2-301.4, the commission shall:

- 191 a. As expeditiously as reasonably possible, schedule and conduct at least three public hearings, in
192 different geographic regions of the Commonwealth, on the plan embodied in the bill delivered by the
193 Division to the General Assembly.
- 194 b. Following the hearings, promptly prepare and submit to the Clerks of the Senate and House a
195 report summarizing information and testimony received by the commission in the course of the hearings.
196 The commission's report shall include any comments and conclusions that its members deem appropriate
197 on the information and testimony received at the hearings, or otherwise presented to the commission.