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SENATE BILL NO. 243

Offered January 9, 2008

Prefiled January 8, 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 24.2-301.4, relating to preparation of and standards for state legislative and congressional redistricting plans; establishment of the Virginia Redistricting Commission.

Patron—Howell

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 24.2-301.4 as follows:

Article 1.1.

The Virginia Redistricting Commission Act.

§ 24.2-301.2. The Virginia Redistricting Commission Act.

This article shall be known as the Virginia Redistricting Commission Act.

§ 24.2-301.3. Establishment of the Commission; standards for redistricting.

A. House of Delegates, state Senate, and congressional district lines shall be drawn by the Virginia Redistricting Commission (hereafter referred to as the Commission) and then presented to the General Assembly for enactment in accordance with the Constitution of Virginia. The Commission shall be constituted in each year ending in zero, perform its duties as stated herein, and be dissolved in the following year ending in one.

B. The Commission shall consist of seven members, none of whom shall be a member or employee of the Congress of the United States or of the General Assembly. The members of the Commission shall be appointed with due consideration to geographic diversity and in the manner provided herein.

There first shall be appointed six members, one each by: the President pro tempore of the Senate; the Speaker of the House of Delegates; the leader in the Senate of the political party holding the most seats in the Senate, other than the political party of the President pro tempore; the leader in the House of Delegates of the political party holding the most seats in the House of Delegates, other than the political party of the Speaker; the chairman of the state committee of the political party whose candidate for the office of Governor received the largest number of votes at the most recent gubernatorial election; and the chairman of the state committee of the political party whose candidate for the office of Governor received the next largest number of votes in that election.

Appointments to the Commission under this subsection shall be made on or before August 15 of the year in which such census is taken and shall be certified to the Secretary of the Commonwealth on or before September 1 of that year. Each partisan delegation so appointed shall appoint one of its members as its chairman who shall have authority to make such certifications and to perform such other tasks as the members of that delegation shall reasonably require.

There then shall be appointed one member, to serve as an independent member, who shall have been for the preceding five years a resident of the Commonwealth, but who shall not during that period have held public or political party office in the Commonwealth. The independent member shall be appointed upon the vote of at least four of the previously appointed members of the Commission on or before October 1 of the year in which the census is taken, and those members shall certify that appointment to the Secretary of the Commonwealth on or before October 5 of that year. If the previously appointed members are unable to appoint an independent member within the time allowed therefor, they shall so certify to the Supreme Court not later than that October 5 and shall include in that certification the names of the two persons who, in the members' final vote upon the appointment of the independent member, received the greatest number of votes. Not later than November 1 following receipt of that certification, the Supreme Court shall by majority vote of its full authorized membership select, of the two persons so named, the one more qualified by education and occupational experience, by prior public service in government or otherwise, and by demonstrated ability to represent the best interests of the people of the Commonwealth, to be the independent member. The Court shall certify that selection to the Secretary of the Commonwealth not later than the following November 5.

Vacancies in the membership of the Commission shall be filled in the same manner as the original appointments were made within five days of their occurrence. In the case of a vacancy in the membership of the independent member, if the other members of the Commission are unable to fill that

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59 vacancy within that five-day period, they shall transmit certification of such inability within three days
60 of the expiration of the period to the Supreme Court, which shall select the person to fill the vacancy
61 within five days of receipt of that certification.

62 The independent member shall serve as the chairman of the Commission.

63 C. The Commission shall draw district lines in accordance with the following Standards for
64 Redistricting (hereafter referred to as the Standards):

65 1. All districts shall be composed of contiguous and compact territory and shall be as equal in
66 population as is practicable and in compliance with federal law. No district shall be composed of
67 territories contiguous only at a point.

68 2. All districts shall be drawn to comply with the Virginia and United States Constitutions, federal
69 law, the federal Voting Rights Act as amended, and relevant case law.

70 3. All districts, to the extent practicable, shall respect the boundary lines of existing political
71 subdivisions. More populous subdivisions shall be divided between or among districts before less
72 populous subdivisions are divided, excluding those subdivisions that straddle the boundary line of
73 geographically larger subdivisions. The number of counties and cities divided among multiple districts
74 shall be as few as practicable.

75 4. All districts shall encompass communities of interest to the extent practicable.

76 5. No district shall be drawn with consideration for the impact on incumbent legislators, members of
77 Congress, or known candidates for office.

78 6. No district shall be drawn to promote, or for the purpose of favoring, the interests of a political
79 party.

80 7. All district boundaries shall be drawn to maintain the core geographical areas of existing
81 districts, to the extent not in conflict with other Standards.

82 D. The Division of Legislative Services shall provide to the Commission sufficient staff with the
83 requisite expertise as shall be reasonably requested by the Commission. The staff of the Commission
84 shall be under the control of the Chairman of the Commission from the time of the appointment of staff
85 to the dissolution of the Commission. The staff of the Commission shall not be deprived of their
86 employment during this period of time without the express consent of the Commission. The Commission
87 may request the assistance of outside counsel or experts as it shall deem necessary.

88 Outside counsel or experts shall be certified by the Commission as nonpartisan at a public meeting.
89 No outside counsel or expert shall be appointed by the Commission who is related to any appointing
90 authority, member of the General Assembly, or member of the Virginia delegation to the United States
91 Congress as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece,
92 husband, wife, grandfather, grandmother, father-in-law, mother-in-law, son-in-law, daughter-in-law,
93 brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister,
94 half-brother, or half-sister.

95 Outside counsel or experts shall never have held elected partisan public office or political party
96 office and shall not have received income during the past 12 months from the General Assembly, a
97 committee thereof, the United States Congress, a committee thereof, a political party, a partisan
98 candidate, or a committee controlled by a partisan candidate. Restrictions on previous employment by
99 the Commonwealth shall not be construed to prevent employees of public colleges and universities from
100 becoming outside counsel or experts.

101 § 24.2-301.4. The district map creation process.

102 A. All deadlines defined in this section, except for the public meeting of the Commission at which it
103 decides on operating procedures and other rules, may, at the discretion of the Commission, be extended
104 by the number of days after January 1 in the year ending in one before the Commonwealth is provided
105 with the enumeration data and census geography provided by the Bureau of the Census pursuant to
106 Public Law § 94-171. Notwithstanding this subsection, the Commission shall provide the First Official
107 District Plan for General Assembly districts to the General Assembly no later than June 15 of the year
108 ending in one. If the Commission so decides, it may create and deliver the district plans for the General
109 Assembly and the United States Congress as separate bills.

110 B. The Commission shall, before December 1 of the year ending in zero, hold a public meeting at
111 which it shall decide upon and cause to be published on paper and on the Internet, the operating
112 procedures and other rules under which it will perform its duties. It will also publish a schedule of
113 public meetings to be held during the redistricting process. All district maps produced by the
114 Commission shall be in accordance with the Standards set out in § 24.2-301.3. The Commission shall
115 keep records of its decisions, directions given to staff, and all other actions and activities as may be
116 required to comply with the federal Voting Rights Act as amended and relevant laws and cases.

117 C. Upon the receipt of census data, the Commission and its staff shall create initial district maps. No
118 individuals other than the Commission members, its staff, and its certified counsel and experts shall be
119 allowed to participate in the creation of initial maps. Initial maps shall be created without the use of
120 any of the following restricted data:

1. Data, hereafter Type 1, regarding election outcomes, voting history, voting trends or patterns, or the partisan affiliation of voters.

2. Data, hereafter Type 2, regarding the place of residence of incumbent legislators, members of Congress, or known candidates for office.

3. Data, hereafter Type 3, regarding demographic information, except that provided by the Bureau of the Census in its enumeration and definition of census blocks and unless required by the federal Voting Rights Act as amended or other law.

D. Once an initial map or multiple initial maps have been created, the Commission may access restricted data of Types 1 and 2 for the purpose of ensuring that the initial plans comply fully with the Standards using this data.

E. When the initial plans have been conformed to the Standards, and no later than April 15 of the year ending in one, the Commission shall hold a public meeting at which it shall certify a single district map plan as the Plan for Public Comment, all relevant details of the Plan, and information on the Standards for distribution at the public meeting and on the Internet.

F. During a period of time of no fewer than 15 days, the Commission shall hold at least five public meetings at which it will receive public comment on the Plan for Public Comment. These meetings shall be publicized as the Commission determines, attended by all Commission members, held at times convenient for the public to attend, held for no less than three hours each, and held in geographically disparate areas of the Commonwealth. A record of each meeting shall be made, and the Commission shall cause a summary of the comments to be published on the Internet and by such other means as the Commission determines.

G. On conclusion of the public comment period, the Commission may modify the Plan for Public Comment to account for the comments, and the modified plan shall comply with the Standards.

H. Within 15 days of the completion of the public comment period, the Commission shall hold a public meeting at which it certifies a First Official District Plan. It shall cause the First Official District Plan to be submitted to the President pro tempore of the Senate and the Speaker of the House of Delegates in the form of a bill for introduction.

I. 1. The General Assembly shall consider the bill containing the First Official District Plan within a short period of time and under rules that do not allow for amendments to the bill. If the Plan fails to pass, the President pro tempore of the Senate and the Speaker of the House of Delegates, or their designees, shall state the reasons for rejection of the Plan and provide those reasons to the Commission. The Commission shall modify the Plan in accordance with the Standards and the reasons given for rejection and present a Second Official District Plan to the General Assembly.

2. The General Assembly shall consider the Second Official District Plan in the same manner as the First Plan. If the Plan fails to pass, the President pro tempore of the Senate and the Speaker of the House of Delegates, or their designees, shall state the reasons for rejection of the Plan and provide those reasons to the Commission. The Commission shall modify the Plan in accordance with the Standards and the reasons given for rejection and present a Third Official District Plan to the General Assembly.

3. The General Assembly shall consider the Third Official District Plan in the same manner as the First and Second Plans. However, the General Assembly shall have authority to amend the bill. The bill shall be presented to the Governor pursuant to the Constitution.

J. On passage of a bill, and its enactment into law, to define the election districts for the General Assembly and the United States House of Representatives, the Commission shall cooperate with and assist the Attorney General to the extent necessary to complete the submission of the bill pursuant to § 5 of the Voting Rights Act.

K. On notification of clearance as required by the Voting Rights Act, the Commission shall be dissolved. The Commission shall be reconstituted with the identical membership in any case where the federal government or a court determines that modifications to the plan are required. The reconstituted Commission shall follow, as closely as practicable, the process set out in this article to meet the requirements of the government or court.