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HOUSE BILL NO. 2538

Offered January 19, 2009

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 24.2-301.10, relating to the Virginia Advisory Redistricting Commission; its creation, composition, duties, and expiration; and standards for redistricting plans.*

Patrons—Plum, Amundson, BaCote, Barlow, Bouchard, Brink, Bulova, Caputo, Ebbin, Englin, Johnson, Lewis, Marsden, Mathieson, Miller, P.J., Morrissey, Poisson, Pollard, Sickles, Toscano, Valentine, Vanderhye and Watts

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 24.2-301.10 as follows:

*Article 1.1.**Virginia Advisory Redistricting Commission.**§ 24.2-301.2. Short title.*

This article may be cited as the Virginia Advisory Redistricting Commission Act.

§ 24.2-301.3. Policy and intent.

Article II, Section 6 of the Constitution of Virginia requires the redistricting of General Assembly and congressional districts in the year 2011 and every tenth year thereafter so that each election district "shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district." In order to avoid even the appearance of a conflict of interest by General Assembly members and to relieve the General Assembly of the time-consuming burden of redistricting, the General Assembly hereby creates the Virginia Advisory Redistricting Commission to recommend plans to redraw the boundaries of the Senate, House of Delegates, and congressional election districts based on the previous year's federal census. This article also sets forth redistricting standards to guide the Commission in its work.

§ 24.2-301.4. Definitions.

As used in this article, unless the context requires a different meaning:

"Appointing officer" 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.

"Commission" means the Virginia Advisory Redistricting Commission established by this article.

"Federal census" means the census required by federal law to be prepared by the United States Bureau of the Census in every year ending in zero and the population reports issued for redistricting purposes pursuant to United States Public Law 94-171 (13 USC § 141) and its successor provisions.

"Lobbyist" means any individual who is required to register as a lobbyist pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2.

"Plan" means a recommendation for the redistricting of the Senate, House of Delegates, or congressional election districts that is submitted by the Commission to the General Assembly.

"Political party office" means any elected or appointed office or employment in any political party as defined in § 24.2-101.

"Public office" means any elected or appointed office or employment in the executive, judicial, or legislative branch, or in any independent agency, of federal, state, or local government.

"Relative" means any 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.

"Secretary" means the Secretary of the State Board of Elections.

§ 24.2-301.5. Virginia Advisory Redistricting Commission.

A. The Commission shall be created in the year 2010 and shall be recreated each tenth year thereafter as follows:

1. By February 1 of each year ending in zero, each caucus of the Senate and House of Delegates of the two political parties having the most members in the Senate and House of Delegates shall notify the Secretary of the name of its Senate or House member, as appropriate, who will serve as an appointing officer;

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57 2. By May 1 of that year, the Secretary shall give reasonable public notice of the establishment of
58 the Commission to give all interested parties the opportunity to apply for a position on the Commission
59 or to offer nominations to an appointing officer;

60 3. No earlier than June 1 but no later than July 1 of that year, each appointing officer shall certify
61 to the Secretary the appointment of one person to serve as a commissioner. If an appointing officer does
62 not certify a selection by July 1, the other appointing officer of the same political party shall certify a
63 second appointment to the Secretary by July 10;

64 4. By August 1 of that year, the four commissioners so selected shall select, by a vote of at least
65 three members, and certify to the Secretary, the fifth member who shall serve as the chairman of the
66 Commission. The Commission may not exercise any of its powers or perform any of its other duties until
67 the fifth member is selected; and

68 5. A vacancy on the Commission shall be filled by the appointing officer who initially made the
69 appointment to that position within 15 days after the vacancy occurs.

70 B. No person shall be appointed to the Commission who:

71 1. Is not a registered voter of the Commonwealth at the time of selection;

72 2. Holds or has held public or political party office within the two years prior to selection;

73 3. Is a relative of or is employed by a member of the Senate, House of Delegates, or the United
74 States House of Representatives; or

75 4. Is or has been a registered lobbyist within the two years prior to selection.

76 C. No member or employee of the Commission shall:

77 1. Hold or campaign for public or political party office while a member or employee of the
78 Commission;

79 2. Participate in or contribute to any political campaign of any Virginia candidate for state or
80 federal elected office;

81 3. Hold or campaign for a seat in the Senate or House of Delegates for four years after the effective
82 date of a plan; or

83 4. Directly or indirectly attempt to influence for compensation any member or staff member of the
84 General Assembly or the Congress of the United States, other than as a representative of the
85 Commission on a matter within the jurisdiction of the Commission, while a member or employee of the
86 Commission, or for one year after the Commission expires.

87 D. The Commission shall operate with a staff and budget as follows:

88 1. The Commission shall employ an executive director and the other staff necessary to enable the
89 Commission to carry out its duties. The executive director and all other employees of the Commission
90 shall serve at the pleasure of the Commission. The executive director shall be responsible for the
91 administrative operation of the Commission and shall perform such duties as may be delegated or
92 assigned by the Commission. The Commission may obtain the services of legal counsel, experts, and
93 consultants as necessary to carry out its duties. The State Board of Elections, the Division of Legislative
94 Services, and the Attorney General shall make available to the Commission such personnel, facilities,
95 and other assistance as the Commission may reasonably request.

96 2. The General Assembly shall appropriate funds to enable the Commission to carry out its duties.
97 Members and employees shall receive compensation and reimbursement for actual and necessary
98 expenses as provided for by appropriation.

99 § 24.2-301.6. Development of redistricting plans.

100 A. As soon as practicable following the receipt of the official United States decennial census for
101 Virginia, the Commission shall prepare for public comment at least one preliminary plan each for the
102 redistricting of the Senate, House of Delegates, and congressional districts. The Commission may, by a
103 vote of at least three members, propose no more than two preliminary plans each for the Senate, House
104 of Delegates, and congressional districts for public comment. A minority of two members may submit
105 one plan for the Senate, House of Delegates, and congressional districts.

106 B. The Commission shall hold public hearings in all the major geographic areas of the
107 Commonwealth on the preliminary plans. The Commission shall complete its public hearings for
108 General Assembly districts within 15 days after the Governor receives the decennial census data and for
109 congressional districts within 45 days after the Governor receives the decennial census data.

110 C. The Commission shall adopt, by a vote of at least three members, one plan each for the Senate
111 and House of Delegates within 30 days after the Governor receives the decennial census data, and a
112 plan for congressional districts within 60 days after the Governor receives the decennial census data.
113 The Commission shall file the plans with the Clerks of the Senate and House of Delegates.

114 D. The General Assembly, under the powers granted to it by Article II, Section 6 of the Constitution
115 of Virginia, may amend the plan submitted to it by the Commission and shall adopt plans pursuant to
116 its constitutional authority.

117 § 24.2-301.7. Quorum and voting.

118 Three members of the Commission present and voting constitute a quorum to do business, and the

votes of a majority of the members present are required for any official action of the Commission.

§ 24.2-301.8. Additional duties of the Commission.

In addition to other duties prescribed by law, the Commission shall:

1. Provide notice of meetings, conduct its meetings, and maintain its records in accordance with the provisions of the Virginia Freedom of Information Act (§ 2.2-3700 et seq.);

2. Maintain an indexed central file of the records of written and oral communications between representatives of the Commission and persons outside the Commission. Each commissioner and staff member designated by the Commission shall keep a record of all communications with persons outside the Commission on matters before the Commission. Each record shall include the date and place of the communication, the names and affiliations of all participants, and the nature of the communication. Records need not be made of communications that are solely requests for information or communications with members of the press; and

3. Prepare and publish a report for each preliminary plan and for the plans submitted to the General Assembly. Each report shall be available to the public at the time a plan is made public and shall include at least the following information: a map or maps of the districts, the population and percentage deviation from the ideal district population for every district, analyses of the compactness of the districts, and an explanation of the standards used in developing the plan with a justification for the deviations in districts from the ideal district population.

§ 24.2-301.9. Expiration of Commission.

Upon the enactment of redistricting plans by the General Assembly and clearance of the plans for implementation pursuant to § 5 of the federal Voting Rights Act of 1965 (42 U.S.C. § 1973 et seq.), as amended, the Commission shall cease operations and shall take all necessary steps to conclude its business. The Division of Legislative Services shall be the permanent custodian of the official records and files of the Commission.

§ 24.2-301.10. Redistricting standards.

A. Senate and House of Delegates districts shall have populations as nearly equal as is practicable based on the population reported in the federal census. No district's population shall deviate by more than five percent from the ideal district population.

B. Congressional districts shall have populations as nearly equal as is practicable based on the population reported in the federal census.

C. To the extent consistent with subsections A and B, district lines shall be drawn to coincide with the boundaries of counties and cities. 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 counties and cities, the more populous locality shall be divided before the less populous.

D. Districts shall be composed of convenient contiguous territory. Land areas shall be deemed contiguous if they share a common land border or are connected by a highway, bridge, or tunnel. Areas separated by unbridged water shall be deemed to be contiguous to the nearest land area only where necessary to comply with the other standards enumerated in this article. Areas that share common borders only at the points of adjoining corners shall not be deemed contiguous. Areas separated by physical barriers that prevent transportation within a district shall not be deemed contiguous.

E. Districts shall be compact in form. The total length of the boundaries of all the districts shall be as short as practicable consistent with the standards contained in subsections A, B, C, and D.

F. No district shall be drawn for the purpose of favoring any political party, incumbent legislator, or other person or group. In preparing a plan, the Commission shall not take into account the addresses of incumbent legislators. The Commission shall not use previous election returns or demographic information for the purpose of favoring any political party, incumbent legislator, or other person or group.

G. Districts shall be drawn to comply with the mandates of the United States Constitution and the federal Voting Rights Act of 1965, as amended.