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SENATE BILL NO. 296

Offered January 13, 2010

Prefiled January 12, 2010

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, 24.2-301.3, and 24.2-301.4, relating to criteria for redistricting; establishment of the Virginia Redistricting Commission.*

Patron—Miller, J.C.

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, 24.2-301.3, and 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. *Commission. House of Delegates, state Senate, and congressional district lines shall be drawn by the Virginia Redistricting Commission (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. *Commission membership. The Commission shall consist of five members, four of whom shall be appointed as follows: 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; and 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. These four appointments shall be made by November 1 of each year ending in zero. These four members shall appoint, upon a vote of at least three members, the fifth member, who shall serve as chair of the Commission by November 10 of each year ending in zero. If the four appointed members are unable to appoint the chair within the time allowed therefor, they shall so certify to the Supreme Court not later than November 15 and shall include in that certification the names of the two persons who, in the members' final vote upon the appointment of the chair, received the greatest number of votes. Not later than November 30 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 chair.*

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 chair, if the other members of the Commission are unable to fill that vacancy within that five-day period, they shall transmit certification of such inability within three days of the expiration of the period to the Supreme Court, which shall select the person to fill the vacancy within five days of receipt of that certification.

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

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

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

3. *All districts, to the extent practicable, shall respect the boundary lines of existing political subdivisions. More populous subdivisions shall be divided between or among districts before less populous subdivisions are divided. The number of counties and cities divided among multiple districts shall be as few as practicable.*

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

5. *No district shall be drawn with consideration for the impact on incumbent legislators, members of*

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59 Congress, or known candidates for office.

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

62 7. All district boundaries shall be drawn to promote competitiveness to the extent practicable;
63 however, no district shall be made artificially competitive in violation of other Standards.

64 8. All district boundaries may be drawn to maintain the core geographical areas of existing districts,
65 to the extent not in conflict with other Standards.

66 D. Commission staff and advisory board. The Division of Legislative Services shall provide to the
67 Commission sufficient staff with the requisite expertise and other support as shall be reasonably
68 requested by the Commission. The staff of the Commission shall be under the control of the chair of the
69 Commission from the time of the appointment of staff to the dissolution of the Commission. The staff of
70 the Commission shall not be deprived of their employment during this period of time without the express
71 consent of the Commission. The Commission may request the assistance of outside counsel or experts as
72 it shall deem necessary.

73 1. Outside counsel or experts shall be certified by the Commission as nonpartisan at a public
74 meeting. Each outside counsel or expert shall pledge in writing that he will not, for at least five years
75 from the date of certification by the Commission, run for election in the congressional, Senate, and
76 House of Delegates districts drawn pursuant to this article.

77 2. No outside counsel or expert shall be appointed by the Commission who is related to any member
78 of the General Assembly or member of the Virginia delegation to the United States Congress as father,
79 mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife,
80 grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law,
81 daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother,
82 stepsister, half-brother, or half-sister.

83 3. Outside counsel or experts shall never have held elected partisan public office or political party
84 office and shall not have received income during the past 12 months from the General Assembly, a
85 committee thereof, the United States Congress, a committee thereof, a political party, a partisan
86 candidate, or a committee controlled by a partisan candidate. No individual who is, or was in the past
87 five years, a registered lobbyist under Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 may serve
88 as outside counsel or expert to the Commission. Restrictions on previous employment by the
89 Commonwealth shall not be construed to prevent an employee of a Virginia institution of higher
90 education from becoming an outside counsel or expert.

91 § 24.2-301.4. The district map creation process.

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

100 B. Rulemaking. The Commission shall, before December 15 of the year ending in zero, hold a public
101 meeting at which it shall decide upon and cause to be published on paper and on the Internet, the
102 operating procedures and other rules under which it will perform its duties. It will also publish a
103 schedule of public meetings to be held during the map creation process. All district maps produced by
104 the Commission shall be in accordance with the Standards set out in § 24.2-301.3. The Commission
105 shall keep records of its decisions, directions given to staff, and all other actions and activities as may
106 be required to comply with the federal Voting Rights Act as amended and relevant laws and cases.

107 C. Initial map creation with data restrictions. Upon the receipt of census data, the Commission and
108 its staff shall create initial district maps. No individuals other than the Commission members, its staff,
109 and its certified counsel and experts shall be allowed to participate in the creation of initial maps.
110 Initial maps shall be released to the public via the Internet and other means as determined by the
111 Commission. Initial maps shall be created without the use of any of the following restricted data:

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

114 2. Data, hereafter Type 2, regarding the place of residence of incumbent legislators, members of
115 Congress, or known candidates for said offices.

116 3. Data, hereafter Type 3, regarding demographic information, except that provided to the public
117 generally by the Bureau of the Census or required by the federal Voting Rights Act as amended or other
118 law.

119 D. Plan testing. Once an initial map or multiple initial maps have been created, the Commission may
120 access restricted data of Types 1 and 2, only as provided to the Commission by the State Board of

121 Elections on the request of the Commission, for the purpose of ensuring that the initial plans comply
 122 with the Standards using this data. In no case shall such data be provided by the General
 123 Assembly, a member or committee thereof, a member of the United States Congress, an official of a
 124 political party, a partisan candidate, a current partisan office holder, a member or official of a
 125 committee controlled by a partisan candidate, any of their employees, agents, or contractors, or any
 126 individual who is, or has in the past five years been, a registered lobbyist under Article 3 (§ 2.2-418 et
 127 seq.) of Chapter 4 of Title 2.2.

128 E. Release of plan for public comment. When the initial plans have been conformed to the Standards,
 129 and no later than April 1 of the year ending in one, the Commission shall hold a public meeting at
 130 which it shall certify a single district map plan as the Plan for Public Comment. All relevant details of
 131 the Plan and information on the Standards shall be released at the public meeting and on the Internet.

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

140 G. Modifications of Plan. At the conclusion of the public comment period, the Commission may
 141 modify the Plan for Public Comment to account for the comments, and the modified Plan shall comply
 142 with the Standards.

143 H. Submission of Plan to General Assembly. Within 15 days of the completion of the public comment
 144 period, the Commission shall hold a public meeting at which it certifies a Redistricting Commission
 145 Plan, by a majority of at least four members. It shall cause its Plan to be submitted to the General
 146 Assembly in the form of a bill for introduction.

147 I. Legislative process.

148 1. The bill to enact the Commission Plan and any other bill to delineate House of Delegates, state
 149 Senate, or congressional district boundaries shall be considered by the appropriate standing committee
 150 of the House and Senate (hereafter referred to as Committee).

151 2. If the Committee votes to report the Commission Plan bill without amendment, it shall report the
 152 bill. If the Committee votes to report the Commission Plan bill with amendments or any other bill with
 153 or without amendments, it shall cause its action to be communicated to the Commission. Within seven
 154 days the Commission shall make a recommendation to the General Assembly whether or not the General
 155 Assembly should agree to the Committee's report. The house receiving the Committee's report shall not
 156 vote on the bill reported by the Committee until it has received the recommendation of the Commission.

157 3. If the Commission Plan bill is rejected by the Committee or the General Assembly, the
 158 Commission may, at the discretion of the chair, prepare and release a new plan in accordance with the
 159 Standards in the form of a bill and present it to the General Assembly for consideration and
 160 introduction.

161 4. If the house of origin passes the Commission Plan bill without amendment, the bill shall be
 162 communicated to the second house. If the house of origin passes the Commission Plan with amendments
 163 or passes any other bill with or without amendments, it shall cause its action to be communicated to the
 164 Commission. Within seven days the Commission shall make a recommendation to the second house
 165 whether or not it should agree to the bill as passed by the first house.

166 5. The process outlined in subdivisions 2 and 4 shall apply to consideration in the second house.
 167 When any bill is adopted by both houses and transmitted to the Governor, the Commission shall review
 168 the bill and make its recommendation to the Governor as to his actions on the bill.

169 6. If the Governor proposes amendments to the bill, the Commission shall review his amendments
 170 and make recommendations to the General Assembly as to whether or not it should agree to the
 171 Governor's amendments at least one day prior to the General Assembly's consideration of the
 172 amendments.

173 7. The Commission, when required to submit a recommendation, shall evaluate the outcome of
 174 implementing the bill or amendment and determine if the bill or amendment has been drafted in
 175 accordance with the Standards set forth in subsection B of § 24.2-301.3. When reviewing any bill or
 176 amendment for recommendation, the Commission may use any data it deems necessary to analyze the
 177 measure's outcome. If the Commission decides, by a majority vote, that the proposed bill or amendment
 178 is not in accordance with the Standards, the Commission shall delineate the manner in which the
 179 proposed bill or amendment deviates from the Standards and report such to the Clerk of the House and
 180 the Clerk of the Senate within the required time. The Commission may, at its discretion, propose
 181 changes to the measure in question that would conform the measure to the Standards. Meetings at

182 which the Commission votes to make a recommendation shall be public and allow for public
183 participation.

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

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