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HOUSE BILL NO. 1749

Offered January 12, 2011

Prefiled January 11, 2011

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; emergency.*

Patron—Plum

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 a different meaning:

"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 U.S. 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 with the approval of the Joint Reapportionment Committee established pursuant to § 30-263.

B. As soon as possible after January 1 of each year ending in one, the Division shall obtain from the U.S. Bureau of the Census information regarding geographic and political units in the 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.

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

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

63 *§ 24.2-301.4. Timetable for preparation of plan.*

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

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

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

94 *D. Notwithstanding subsections A, B, and C:*

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

102 *2. If the population data for legislative redistricting that the U.S. Bureau of the Census is required to*
103 *provide the Commonwealth under P. L. 94-171 and, if used by the Division, the corresponding TIGER*
104 *data file for that population data, are not available to the Division on or before February 1 of the year*
105 *ending in one, the dates set forth in this section shall be extended by a number of days equal to the*
106 *number of days after February 1 of the year ending in one that the federal census population data and*
107 *the TIGER data file for legislative redistricting become available.*

108 *§ 24.2-301.5. Redistricting standards.*

109 *A. Legislative and congressional plans shall comply with Virginia and federal constitutional*
110 *requirements and the federal Voting Rights Act.*

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

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

121 House of Delegates district shall have a population that exceeds that of any other House of Delegates
122 district by more than five percent.

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

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

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

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

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

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

142 1. Addresses of incumbent legislators or members of Congress.

143 2. Political affiliations of registered voters.

144 3. Previous election results.

145 4. Demographic information, other than population head counts, except as required by the
146 Constitution and the laws of the United States.

147 § 24.2-301.6. Temporary redistricting advisory commission.

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

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

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

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

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

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

164 1. Is not a qualified voter of the Commonwealth at the time of selection;

165 2. Holds partisan public office or political party office; or

166 3. Is a relative of or is employed by a member of the General Assembly or of the United States
167 Congress, or is employed directly by the General Assembly or by the United States Congress.

168 § 24.2-301.7. Duties of commission.

169 The duties of the commission shall be as follows:

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

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

178 3. Upon each delivery by the Division to the General Assembly of a bill embodying a plan, pursuant
179 to § 24.2-301.4, the commission shall at the earliest feasible time make available to the public the
180 following information:

181 a. Copies of the bill delivered by the Division to the General Assembly;

- 182 *b. Maps illustrating the plan;*
183 *c. A summary of the standards prescribed by § 24.2-301.5 for development of the plan; and*
184 *d. A statement of the population of each district included in the plan, and the relative deviation of*
185 *each district population from the ideal district population.*
186 *4. Upon the delivery by the Division to the General Assembly of a bill embodying an initial plan, as*
187 *required by subsection A of § 24.2-301.4, the commission shall:*
188 *a. As expeditiously as reasonably possible, schedule and conduct at least three public hearings, in*
189 *different geographic regions of the Commonwealth, on the plan embodied in the bill delivered by the*
190 *Division to the General Assembly.*
191 *b. Following the hearings, promptly prepare and submit to the Clerks of the Senate and House a*
192 *report summarizing information and testimony received by the commission in the course of the hearings.*
193 *The commission's report shall include any comments and conclusions that its members deem appropriate*
194 *on the information and testimony received at the hearings or otherwise presented to the commission.*
195 **2. That an emergency exists and this act is in force from its passage.**