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SENATE BILL NO. 765

Offered January 14, 2015

Prefiled December 23, 2014

A BILL to amend and reenact § 24.2-304.1 of the Code of Virginia and to amend the Code of Virginia by adding in Article 4 of Chapter 3 of Title 24.2 a section numbered 24.2-314, relating to population data to be used for redistricting.

Patrons—Edwards, Deeds and Howell

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-304.1 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 4 of Chapter 3 of Title 24.2 a section numbered 24.2-314 as follows:

§ 24.2-304.1. At-large and district elections; reapportionment and redistricting of districts or wards; limits.

A. Except as otherwise specifically limited by general law or special act, the governing body of each county, city, or town may provide by ordinance for the election of its members on any of the following bases: (i) at large from the county, city, or town; (ii) from single-member or multi-member districts or wards, or any combination thereof; or (iii) from any combination of at-large, single-member, and multi-member districts or wards. A change in the basis for electing the members of the governing body shall not constitute a change in the form of county government.

B. If the members are elected from districts or wards and other than entirely at large from the locality, the districts or wards 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 or ward. In 1971 and every 10 years thereafter, the governing body of each such locality shall reapportion the representation among the districts or wards, including, if the governing body deems it appropriate, increasing or diminishing the number of such districts or wards, in order to give, as nearly as is practicable, representation on the basis of population.

C. For the purposes of redistricting and reapportioning representation in 2004, 2021 and every 10 years thereafter, the governing body of a county, city, or town shall use the most recent decennial population figures for such county, city, or town from the United States Bureau of the Census, which figures are identical to those from the actual enumeration conducted by the United States Bureau of the Census for the apportionment of representatives in the United States House of Representatives, except that the census data for these redistricting and apportionment purposes will not include any population figure that is not allocated to specific census blocks within the Commonwealth, even though that population may have been included in the apportionment population figures of the Commonwealth for the purpose of allocating United States House of Representatives seats among the states as adjusted by the Division of Legislative Services in accordance with subsection E of § 24.2-314. The governing body of any county, city, or town may elect to exclude the adult inmate population of any federal, state, or regional adult correctional facility located in the locality from the population figures used for the purposes of the decennial reapportionment and redistricting. The adult inmate population so excluded shall be based on information provided by the facility as to the adult inmate population at the facility on the date of the decennial census.

D. Notwithstanding any other provision of general law or special act, the governing body of a county, city, or town shall not reapportion the representation in the governing body at any time other than that required following the decennial census, except as (i) provided by law upon a change in the boundaries of the county, city, or town that results in an increase or decrease in the population of the county, city, or town of more than one percent, (ii) the result of a court order, (iii) the result of a change in the form of government, or (iv) the result of an increase or decrease in the number of districts or wards other than at-large districts or wards. The foregoing provisions notwithstanding, the governing body subsequent to the decennial redistricting may adjust district or ward boundaries in order that the boundaries might coincide with state legislative or congressional district boundaries; however, no adjustment shall affect more than five percent of the population of a ward or district or 250 persons, whichever is lesser. If districts created by a reapportionment enacted subsequent to a decennial reapportionment are invalid under the provisions of this subsection, the immediately preexisting districts shall remain in force and effect until validly reapportioned in accordance with law.

§ 24.2-314. Population data to be used for redistricting.

INTRODUCED

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59 A. The Department of Corrections (Department) shall collect and maintain an electronic record of
60 the last residential address outside of any corrections facility, legal residence, presumptively outside of
61 any corrections facility, and other demographic data for any person entering its custody on and after
62 January 1, 2016. At a minimum, the record shall contain the person's last known complete street
63 address prior to incarceration, the person's race, whether the person is of Hispanic or Latino origin,
64 and whether the person is 18 years of age or older. To the extent possible, the Department shall update
65 the legal residence as appropriate.

66 B. By May 1 of each year in which the federal decennial census is taken but in which the United
67 States Bureau of the Census allocates incarcerated persons as residents of correctional facilities, the
68 Department of Corrections shall deliver the following information to the Division of Legislative Services
69 (Division) in such form as the Division shall specify:

70 1. A unique identifier, not including the name or State Offender Identification (SID) number, for each
71 incarcerated person subject to the jurisdiction of the Department on the date for which the decennial
72 census reports population. The unique identifier shall enable the Division to address inquiries about
73 specific address records to the Department. The information shall be confidential and shall not be
74 disclosed by the Division except as redistricting data aggregated by census block for purposes specified
75 in subsection D;

76 2. The street address of the correctional facility in which the person is incarcerated at the time of
77 the report;

78 3. The last known residential street address of the person prior to incarceration, and legal residence
79 if known;

80 4. The person's race, whether the person is of Hispanic or Latino origin, and whether the person is
81 age 18 or over, if known; and

82 5. Any additional information as the Division may request pursuant to law.

83 C. The Division shall request each agency operating a federal facility in the Commonwealth that
84 incarcerates persons convicted of a criminal offense to provide the Division with a report including the
85 information listed in subsection B.

86 D. The Division shall prepare redistricting population data reflecting incarcerated persons at their
87 residential addresses pursuant to subsection E. The data prepared by the Division shall be the basis for
88 House of Delegates districts, Senate districts, and all local government election districts that are based
89 on population. Incarcerated populations for whom no residential address within the Commonwealth has
90 been determined as specified in subdivision 3 b of subsection E shall not be used to determine the ideal
91 population of any set of districts.

92 E. The Division shall determine and publish the redistricting population data as follows:

93 1. For each person included in a report pursuant to subsection B or C, the Division shall determine
94 the geographical unit for which population counts are reported in the federal decennial census that
95 contains the facility of incarceration and the legal residence prior to entering custody of the person
96 according to the report.

97 2. For each person included in a report received pursuant to subsection B or subsection C, if the
98 last residential address is known and is located within the Commonwealth, the Division shall:

99 a. Ensure that the person is not represented in any population counts reported by the Division for
100 the geographical units that include the facility at which the person is incarcerated, unless that
101 geographical unit also includes the person's last residential address prior to entering custody; and

102 b. Ensure that any population counts reported by the Division reflect the person's residence address
103 as reported pursuant to subsection B or subsection C.

104 3. For each person included in a report received pursuant to subsection B or C for whom the last
105 residential address is not known or whose last residential address is not in the Commonwealth and for
106 each person reported in the census as residing in a federal correctional facility for whom a report was
107 not provided, the Division shall:

108 a. Ensure that the person is not represented in any population counts reported by the Division for
109 the geographic units that include the facility in which the person is incarcerated; and

110 b. Allocate the person to a state unit not tied to a specific determined geographic location in the
111 same manner as other state residents with unknown state addresses are allocated, including but not
112 limited to military and federal government personnel stationed overseas.

113 4. The data provided by the Division pursuant to this section shall be completed and published no
114 later than 30 days from the date that federal decennial population data required to be published by P.L.
115 94-171 is published for Virginia.

116 5. The Division shall notify each local government that this section requires it to use the data
117 prepared by the Division for redistricting purposes.

118 F. The data prepared by the Division shall not be used in the distribution of any state or federal aid.