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SENATE BILL NO. 31

Offered January 13, 2016

Prefiled December 14, 2015

A *BILL to amend the Code of Virginia by adding in Article 2 of Chapter 3 of Title 24.2 a section numbered 24.2-304.04, relating to the Virginia Interim Redistricting Commission; criteria for remedial redistricting plans.*

Patrons—Lucas; Delegates: Heretick and Kory

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 Article 2 of Chapter 3 of Title 24.2 a section numbered 24.2-304.04 as follows:

§ 24.2-304.04. Virginia Interim Redistricting Commission; criteria for remedial redistricting plans.

A. *If any congressional or state legislative district drawn as required by Article II, Section 6 of the Constitution of Virginia shall be declared unlawful or unconstitutional, in whole or in part, by order of any state or federal court, an interim redistricting commission shall be established pursuant to this section to determine and propose a redistricting plan to remedy that unlawful or unconstitutional district.*

B. *The Virginia Interim Redistricting Commission (the Commission) shall consist of seven members. No member of the Commission or a member of his immediate family shall be a member or employee of the Congress of the United States or of the Virginia General Assembly, or be employed to lobby before any of these legislative bodies. The members of the Commission shall be appointed with due consideration to geographic diversity. Of the seven members, four shall be identified as members of political parties and three shall be independent public officials whose positions require the exercise of apolitical or nonpartisan judgment and discretion.*

1. *Appointments to the Commission shall be made no later than 30 days after the date of the court order declaring a congressional or state legislative district to be unlawful or unconstitutional. The President pro tempore of the Senate, 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 Speaker of the House of Delegates, 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 each shall appoint a member of his political party. The three independent public officials shall be the Auditor of Public Accounts, the State Inspector General, and the Executive Director of the Virginia State Bar. The Auditor of Public Accounts shall serve as the chairperson of the Commission.*

2. *The members of the Commission shall take the oath of office administered by the Chief Justice of the Supreme Court of Virginia or his designee.*

3. *All administrative and procedural decisions by the Commission shall be by a majority vote of four members. The final approval and submission of a remedial redistricting plan shall be by a majority vote of five of the seven members of the Commission, including at least one vote from each of the political parties represented and from among the independent members.*

C. *The Commission shall hold its first meeting no later than 45 days after the date of the court order declaring a congressional or state legislative district to be unlawful or unconstitutional. If the court order declaring a district to be unlawful or unconstitutional is appealed and a stay is granted by the court, any further action by the Commission shall be suspended until the appeal is concluded or the stay is lifted.*

1. *Within the period of time prescribed by the court but no later than 90 days following the date of its first meeting, the Commission shall approve, by a majority vote of five of its seven members as prescribed in subdivision B 3, a proposed redistricting plan to remedy the unlawful or unconstitutional district and shall submit such plan to the Clerks of the House of Delegates and the Senate of Virginia and to the Secretary of the Commonwealth for consideration by the General Assembly and the Governor.*

2. *If the Commission is unable to approve for submission a remedial redistricting plan by the majority vote required by subdivision B 3 within the prescribed period of time, the two plans receiving the most number of votes shall be submitted to the Clerks of the House of Delegates and the Senate of Virginia and to the Secretary of the Commonwealth for consideration by the General Assembly and the Governor.*

3. *The submission of any proposed remedial redistricting plan shall include a record of the votes*

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59 taken on the plan, a report summarizing the statistical information and testimony received by the
60 Commission during its proceedings, and any minority reports, comments, or conclusions deemed
61 appropriate for consideration by Commission members.

62 4. The Commission may solicit, receive, and consider redistricting plans or maps from the general
63 public in considering the establishment of a remedial redistricting plan to be submitted pursuant to this
64 subsection.

65 D. The Commission shall hold at least one public hearing to receive and consider comments from
66 the public on the remedial plans subject to consideration. The Commission shall conduct its meeting and
67 shall vote on the approval of a remedial redistricting plan in an open public meeting located in the City
68 of Richmond, allowing for comment and input from the public in its consideration of proposed
69 redistricting plans. The Commission shall give notice of any public hearing or meeting at least 48 hours
70 in advance in either print or electronic media, or both.

71 E. Any congressional and state legislative district drawn by the Commission shall be constituted so
72 as to adhere to the following criteria, in the order in which the criteria are set forth:

73 1. Existing political boundaries shall be respected to the maximum extent possible. Political
74 boundaries shall include the boundaries of counties, cities, towns, county magisterial and election
75 districts, municipal councilmanic districts, and voting precincts. If a departure from existing political
76 boundaries is necessary in order to comply with other districting criteria, the district lines shall be
77 drawn utilizing clearly observable boundaries. A "clearly observable boundary" shall include (i) any
78 named road or street; (ii) any road or highway that is a part of the federal, primary, or secondary state
79 highway system; (iii) any river, stream, or drainage feature shown as a polygon boundary on the
80 TIGER/Line Files of the United States Bureau of the Census; or (iv) any other natural or constructed or
81 erected permanent physical feature that is shown on an official map issued by the Virginia Department
82 of Transportation, on a U.S. Geological Survey topographical map, or as a polygon boundary on the
83 TIGER/Line Files of the U.S. Bureau of the Census. No property line or subdivision boundary shall be
84 deemed to be a clearly observable boundary unless it is marked by a permanent physical feature that is
85 shown on an official map issued by the Virginia Department of Transportation, on a U.S. Geological
86 Survey topographical map, or as a polygon boundary on the TIGER/Line Files of the U.S. Bureau of the
87 Census.

88 2. Legislative and congressional districts shall be established on the basis of population. Senate and
89 House of Delegates districts shall each have a population that is as substantially equal to the population
90 of every other respective district as practicable. Congressional districts shall have populations that are
91 as nearly equal as practicable. The General Assembly shall be guided by the most recent federal and
92 state judicial decisions defining standards for equal population for the respective districts, including
93 permissible deviations from ideal population if the deviation is necessary in order to achieve some other
94 legitimate districting criterion.

95 3. Districts shall be drawn in accordance with the requirements of federal and state laws, and
96 judicial decisions interpreting such laws, that address racial and ethnic fairness, including the Equal
97 Protection Clause of the United States Constitution and the provisions of the federal Voting Rights Act
98 of 1965, as amended.

99 4. Each legislative and congressional district shall be composed of contiguous territory. A district
100 shall be deemed contiguous if it is possible to travel from one point in the district to any other point in
101 the district without crossing the boundary of the district. Territory that touches the rest of a district only
102 by a point shall not be deemed contiguous territory. Districts divided by water shall be deemed
103 contiguous if a common means of transport, such as a bridge or ferry, connects the two parts of the
104 district or, if the water were to be removed, the land on one side of the district would be contiguous
105 with the land on the other side of the district. Connections by water running downstream or upriver are
106 not permissible.

107 5. Each legislative and congressional district shall be composed of compact territory. Districts shall
108 not be oddly shaped or have irregular or contorted boundaries, unless justified because the district
109 adheres to political subdivision lines. Fingers or tendrils extending from a district core shall be avoided,
110 as shall thin and elongated districts and districts with multiple core populations connected by thin strips
111 of land or water. The General Assembly shall employ one or more standard numerical measures of
112 individual and average district compactness to provide an objective assessment of a districting plan's
113 compactness, both statewide and district-by-district.

114 6. Consideration may be given to communities of interest by creating districts that do not carve up
115 homogeneous neighborhoods or separate groups of people living in an area with similar interests or
116 needs in transportation, employment, or culture.

117 7. No district shall be drawn for the purpose of favoring or disfavoring any political party, any
118 incumbent legislator or member of Congress, or any potential candidate. Political data, including
119 addresses of incumbent legislators or members of Congress, political affiliations of voters, or previous
120 election results, shall not be used in the drawing of any legislative or congressional district, except as

121 *may be necessary to ensure that racial or ethnic minorities are able to elect a preferred candidate of*
122 *choice in a district drawn pursuant to the federal Voting Rights Act of 1965, as amended.*

123 *F. The Commission shall be provided office space in the offices of the Division of Legislative*
124 *Services and shall be provided assistance from the staff of the Division of Legislative Services as may*
125 *be required. The General Assembly shall provide to the Commission funding sufficient for the efficient*
126 *and independent operation of the Commission, including the retention of legal counsel, demographic*
127 *experts, and other necessary staff. The Commission shall remain established until (i) a remedial*
128 *redistricting plan is enacted by the General Assembly and the Governor and is approved by the court or*
129 *(ii) the court dismisses or enters a final judgment in the judicial proceedings.*