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## SENATE BILL NO. 19

## AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Privileges and Elections  
on January 16, 2018)

(Patrons Prior to Substitute—Senators Lucas and Vogel [SB 598])

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.*

**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, to be named the Virginia Interim Redistricting Commission (the Commission), shall be established pursuant to this section to determine and propose a redistricting plan to remedy that unlawful or unconstitutional district.

B. 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 either legislative body. 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 chairman 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 taken on the plan, a report summarizing the statistical information and testimony received by the Commission during its proceedings, and any minority reports, comments, or conclusions deemed appropriate for consideration by Commission members.

4. The Commission may solicit, receive, and consider redistricting plans or maps from the general

60 public in considering the establishment of a remedial redistricting plan to be submitted pursuant to this  
61 subsection.

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

68 E. Any congressional or state legislative district drawn by the Commission shall be constituted so as  
69 to adhere to the following standards and criteria:

70 1. Legislative and congressional districts shall be established on the basis of population. Senate and  
71 House of Delegates districts shall each have a population that is as substantially equal to the population  
72 of every other respective district as practicable. Congressional districts shall have populations that are  
73 as nearly equal as practicable. The General Assembly shall be guided by the most authoritative federal  
74 and state judicial decisions defining standards for equal population for the respective districts.  
75 Variations in the size of districts, within the deviations permitted by applicable law, may be permitted if  
76 necessary to facilitate compliance with one or more of the other standards or criteria set forth in this  
77 section.

78 2. Districts shall be drawn in accordance with the requirements of all applicable federal and state  
79 laws and judicial decisions interpreting such laws, including the Equal Protection Clause of the United  
80 States Constitution, the provisions of the federal Voting Rights Act of 1965, as amended, and any other  
81 such laws addressing racial and ethnic fairness.

82 3. Each legislative and congressional district shall be composed of contiguous territory. A district  
83 shall be deemed contiguous if it is possible to travel from one point in the district to any other point in  
84 the district without crossing the boundary of the district. Territory that touches the rest of a district only  
85 by a point shall not be deemed contiguous territory. Districts divided by water shall be deemed  
86 contiguous if a common means of transport, such as a bridge or ferry, connects the two parts of the  
87 district or, if the water were to be removed, the land on one side of the water would be contiguous with  
88 the land on the opposite side of the water. Connections by water running downstream or upriver are not  
89 permissible.

90 4. Each legislative and congressional district shall be composed of compact territory, such that  
91 nearby areas of population are not bypassed for more distant populations. Districts shall not be oddly  
92 shaped or have irregular or contorted boundaries, unless justified because the district adheres to  
93 political subdivision lines or well-recognized communities of interest. Fingers or tendrils extending from  
94 a district core shall be avoided, as shall thin and elongated districts and districts with multiple core  
95 populations connected by thin strips of land or water. The General Assembly shall employ one or more  
96 standard numerical measures of individual and average district compactness to provide an objective  
97 assessment of a districting plan's compactness, both statewide and district by district.

98 5. Existing political boundaries shall be respected to the maximum extent possible, and departures  
99 from existing political boundaries may be permitted only if necessary to comply with one or more of the  
100 other standards or criteria set forth in this section. Political boundaries shall include the boundaries of  
101 counties, cities, towns, county magisterial and election districts, municipal councilmanic districts, and  
102 voting precincts. If a departure from existing political boundaries is necessary in order to comply with  
103 other districting criteria, the district lines shall be drawn utilizing clearly observable physical  
104 boundaries. A "clearly observable boundary" includes (i) any named road or street; (ii) any road or  
105 highway that is a part of the federal highway system or the primary or secondary state highway system;  
106 (iii) any river, stream, or drainage feature shown as a polygon boundary on the TIGER/Line Files of  
107 the United States Bureau of the Census; or (iv) any other natural or constructed or erected permanent  
108 physical feature that is shown on an official map issued by the Virginia Department of Transportation,  
109 on a United States Geological Survey topographical map, or as a polygon boundary on the TIGER/Line  
110 Files of the United States Bureau of the Census. No property line or subdivision boundary shall be  
111 deemed to be a clearly observable boundary unless it is marked by a permanent physical feature that is  
112 shown on an official map issued by the Virginia Department of Transportation, on a United States  
113 Geological Survey topographical map, or as a polygon boundary on the TIGER/Line Files of the United  
114 States Bureau of the Census.

115 6. Existing communities of interest shall be respected to the maximum extent practicable. Districts  
116 should be drawn in such a way as to avoid dividing communities of interest without violating the  
117 requirements of the preceding subdivisions. District lines shall not be drawn to divide homogeneous  
118 neighborhoods or any geographically defined group of people living in an area who share similar  
119 social, cultural, and economic interests. Other examples of communities of interest are recognized  
120 minority and ethnic enclaves, residential subdivisions, and recognized but unincorporated areas. A  
121 community of interest does not include a community based upon political affiliation or relationship with

122 a political party, elected official, or candidate for office.

123 7. No district shall be drawn for the purpose of favoring or disfavoring any political party,  
124 incumbent legislator or member of Congress, or potential candidate. Political data, including addresses  
125 of incumbent legislators or members of Congress, political affiliations of voters, or previous election  
126 results, shall not be used in the drawing of any legislative or congressional district, except as may be  
127 necessary to ensure that racial or ethnic minorities are able to elect a preferred candidate of choice in  
128 a district drawn pursuant to subdivision 2.