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SENATE BILL NO. 427

Offered January 10, 2018

Prefiled January 9, 2018

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 temporary redistricting advisory commission.

 Patron—Lewis

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 as follows: 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.

"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 redrawing legislative and congressional districts 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 in § 24.2-101.

"Relative" means an individual's parent, child, sibling, uncle, aunt, first cousin, nephew, niece, spouse, grandparent, parent-in-law, child-in-law, sibling-in-law, stepparent, stepchild, stepsibling, or half-sibling.

§ 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.

C. 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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SB427

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 on certified federal census data to each geographic or political unit
61 described pursuant to subdivision B 1. Next, the Division shall begin the preparation of legislative and
62 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 be
71 expeditiously brought to a vote in the second house under a similar procedure or rule. If the bill fails to
72 be approved by a constitutional majority in either the Senate or the House of Delegates, the Clerk of the
73 Senate or House of Delegates, as the case may be, shall at once transmit to the Division information
74 that the Senate or House of Delegates may direct regarding the reasons the plan was not approved.

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

90 C. If the plan submitted under subsection B fails to be enacted, the same procedure as prescribed by
91 subsection B shall be followed. If a third plan is required under this subsection, the bill embodying it
92 shall be delivered to the Clerks of the Senate and House of Delegates not later than June 1 of the year
93 ending in one, or 14 days after the date of the vote by which the Senate or House of Delegates fails to
94 approve, or the date the Governor vetoes, the bill submitted under subsection B, whichever date is later.
95 If it is necessary to submit a bill under this subsection, the bill shall be brought to a vote within the
96 same time period after its delivery to the Clerks of the Senate and House of Delegates as prescribed for
97 the bill submitted under subsection B, but the bill shall be subject to amendment in the same manner as
98 other bills.

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

107 E. If the population data for legislative redistricting that the U.S. Bureau of the Census is required
108 to provide the Commonwealth under P.L. 94-171 and, if used by the Division, the corresponding
109 TIGER/Line File for that population data are not available to the Division on or before February 1 of
110 the year ending in one, the dates set forth in this section shall be extended by a number of days equal
111 to the number of days after February 1 of the year ending in one that the federal census population
112 data and the TIGER/Line File for legislative redistricting become available.

113 **§ 24.2-301.5. Redistricting standards.**

114 A. Legislative and congressional districts shall be established on the basis of population.

115 1. Senate and House of Delegates districts shall each have a population as nearly equal as
116 practicable to the ideal population for such districts, respectively, determined by dividing the population
117 of the Commonwealth reported in the federal decennial census by the number of districts to be
118 established. Senate and House of Delegates districts shall not vary in population from the respective
119 ideal district populations except as necessary to comply with one of the other standards enumerated in
120 this section. In no case shall the quotient, obtained by dividing the total of the absolute values of the

deviations of all district populations from the applicable ideal district population by the number of districts established, exceed two percent of the applicable ideal district population. No Senate district shall have a population that exceeds that of any other Senate district by more than five percent, and no House of Delegates district shall have a population that exceeds that of any other House of Delegates district by more than five percent.

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

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

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

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

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

E. Except as required by the United States Constitution and the laws of the United States, no district shall be drawn (i) for the purpose of favoring a political party, incumbent legislator or member of Congress, or other person or group; (ii) for the purpose of augmenting or diluting the voting strength of a language or racial minority group; or (iii) using any political data, including (a) addresses of incumbent legislators or members of Congress, (b) political affiliations of registered voters, (c) previous election results, and (d) demographic information, other than population head counts.

F. All legislative and congressional plans drawn pursuant to this section shall comply with Virginia and federal constitutional requirements.

§ 24.2-301.6. Temporary redistricting advisory commission.

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

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

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

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

B. Each person appointed to the commission shall be a qualified voter of the Commonwealth at the time of his appointment. No person shall be appointed to the commission who:

1. Holds or has held partisan public office or political party office;
2. Is employed by or has been employed by any local, state, or federal campaign;
3. Employs or is employed as a lobbyist; or
4. Is a relative of or is employed by a member of the General Assembly or of the United States Congress or is employed directly by the General Assembly or by the United States Congress.

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

§ 24.2-301.7. Duties of commission.

The duties of the commission shall be as follows:

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

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

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

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

191 b. Maps illustrating the plan;

192 c. A summary of the standards prescribed by § 24.2-301.5 for development of the plan; and

193 d. A statement of the population of each district included in the plan, and the relative deviation of
194 each district population from the ideal district population.

195 4. Upon the delivery by the Division to the General Assembly of a bill embodying an initial plan, as
196 required by subsection A of § 24.2-301.4, the commission shall:

197 a. As expeditiously as reasonably possible, schedule and conduct at least three public hearings in
198 different geographic regions of the Commonwealth on the plan embodied in the bill delivered by the
199 Division to the General Assembly.

200 b. Following the hearings, promptly prepare and submit to the Clerks of the Senate and House of
201 Delegates a report summarizing information and testimony received by the commission in the course of
202 the hearings. The commission's report shall include any comments and conclusions that its members
203 deem appropriate about the information and testimony received at the hearings or otherwise presented
204 to the commission.