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SENATE BILL NO. 717

Offered January 8, 2020

Prefiled January 7, 2020

A BILL to amend and reenact §§ 24.2-304.1 and 30-265 of the Code of Virginia and 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 congressional and state legislative districts; standards and criteria.

Patrons—McClellan, Favola and Boysko

Referred to Committee on Privileges and Elections

Be it enacted by the General Assembly of Virginia:

1. That §§ 24.2-304.1 and 30-265 of the Code of Virginia are amended and reenacted and 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:

§ 24.2-304.1. 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 no person shall be deemed to have gained or lost a residence by reason of conviction and incarceration in a federal or state correctional facility. Persons incarcerated in a federal or state correctional facility shall be counted in the locality of their last known legal residence, using administrative records provided by the Federal Bureau of Prisons and the Virginia Department of Corrections, where available. 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. 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

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SB717

59 reapportionment are invalid under the provisions of this subsection, the immediately preexisting districts  
 60 shall remain in force and effect until validly reapportioned in accordance with law.

61 **§ 24.2-304.04. Standards and criteria for congressional and state legislative districts.**

62 *Every congressional and state legislative district shall be constituted so as to adhere to the following*  
 63 *criteria:*

64 1. *Each district shall be composed of contiguous territory. No district shall consist of parts entirely*  
 65 *separated by the territory of another district, whether such territory be land or water, or populated or*  
 66 *unpopulated. A populated census block shall not be divided by a district boundary, unless it can be*  
 67 *determined that the populated part of such block is within a single district.*

68 2. *The whole number of persons reported in the most recent federal decennial census by the United*  
 69 *States Bureau of the Census shall be the basis for determining district populations, except that no*  
 70 *person shall be deemed to have gained or lost a residence by reason of conviction and incarceration in*  
 71 *a federal or state correctional facility. Persons incarcerated in a federal or state correctional facility*  
 72 *shall be counted in the locality of their last known legal residence, using administrative records*  
 73 *provided by the Federal Bureau of Prisons and the Virginia Department of Corrections, where*  
 74 *available.*

75 3. *Districts shall be drawn in accordance with the requirements of the Constitution of the United*  
 76 *States, including the Equal Protection Clause of the Fourteenth Amendment, and the Constitution of*  
 77 *Virginia; federal and state laws, including the federal Voting Rights Act of 1965, as amended; and*  
 78 *relevant judicial decisions relating to racial and ethnic fairness.*

79 4. *No district shall be drawn that results in a denial or abridgement of the right of any citizen to*  
 80 *vote on account of race or color or membership in a language minority group. No district shall be*  
 81 *drawn that results in a denial or abridgement of the rights of any racial or language minority group to*  
 82 *participate in the political process and to elect representatives of their choice. A violation of this*  
 83 *subdivision is established if, on the basis of the totality of the circumstances, it is shown that districts*  
 84 *were drawn in such a way that members of a racial or language minority group are dispersed into*  
 85 *districts in which they constitute an ineffective minority of voters or are concentrated into districts*  
 86 *where they constitute an excessive majority. The extent to which members of a racial or language*  
 87 *minority group have been elected to office in the state or the political subdivision is one circumstance*  
 88 *that may be considered. Nothing in this subdivision shall establish a right to have members of a racial*  
 89 *or language minority group elected in numbers equal to their proportion in the population.*

90 5. *Existing political boundaries shall be considered, but no district shall be drawn for the purpose of*  
 91 *favoring or disfavoring any political party, incumbent legislator or member of Congress, or other*  
 92 *individual or entity. Political data, including addresses of incumbent legislators or members of*  
 93 *Congress, political affiliations of voters, or previous election results, shall not be used in the drawing of*  
 94 *any district, except as may be necessary to ensure that racial or language minority groups are able to*  
 95 *elect a preferred candidate of choice pursuant to subdivision 4.*

96 6. *To the extent possible, a district shall unite communities defined by actual shared interests, taking*  
 97 *into account geographic, social, economic, and other factors that indicate commonality of interests.*  
 98 *Districts shall be formed so as to promote the orderly and efficient administration of elections. A*  
 99 *community of interest does not include a community based upon political affiliation or relationship with*  
 100 *a political party, elected official, or candidate for office.*

101 7. *Districts shall be as compact in form as possible. Districts shall be compared, using average*  
 102 *numerical measures, for (i) geographical dispersion or the degree to which the territory of a district is*  
 103 *either tightly packed or widely spread out, (ii) the relation of the perimeter lengths to the areas of*  
 104 *districts, and (iii) the dispersion of the populations of districts.*

105 **§ 30-265. Reapportionment of congressional and state legislative districts; United States Census**  
 106 **population counts.**

107 For the purposes of redrawing the boundaries of the congressional, state Senate, and House of  
 108 Delegates districts after the United States Census for the year 2000 2020 and every 10 years thereafter,  
 109 the General Assembly shall use the population data provided by the United States Bureau of the Census  
 110 identical to those from the actual enumeration conducted by the Bureau for the apportionment of the  
 111 Representatives of the United States House of Representatives following the United States decennial  
 112 census, except that the, except that no person shall be deemed to have gained or lost a residence by  
 113 reason of conviction and incarceration in a federal or state correctional facility. Persons incarcerated in  
 114 a federal or state correctional facility shall be counted in the locality of their last known legal  
 115 residence, using administrative records provided by the Federal Bureau of Prisons and the Virginia  
 116 Department of Corrections, where available. The census data used for this apportionment purpose shall  
 117 not include any population figure which that is not allocated to specific census blocks within the  
 118 Commonwealth, even though that population may have been included in the apportionment population  
 119 figures of the Commonwealth for the purpose of allocating United States House of Representatives seats  
 120 among the states.