

Department of Planning and Budget

2020 Fiscal Impact Statement

1. Bill Number: HB758

House of Origin	<input type="checkbox"/> Introduced	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: VanValkenburg

3. Committee: Privileges and Elections

4. Title: Redistricting; Virginia Redistricting Commission; standards and criteria; population data

- 5. Summary:** The substitute bill provides for the preparation of adjusted population data for redistricting and reapportionment purposes to reflect the reallocation of persons incarcerated in federal, state, and local correctional facilities. The bill provides that a person incarcerated in a correctional facility whose legal residence prior to entering custody was located within the Commonwealth will be deemed to reside at such residence, and a person incarcerated in a correctional facility whose legal residence prior to entering custody was located outside of the Commonwealth or whose legal residence prior to entering custody cannot be determined will not be included in the population count for the locality in which the facility is located; instead, such persons shall be allocated to a state unit not tied to a specific determined geographic location in the same manner as other state residents with an unknown address are allocated. Under the current residence criteria of the U.S. Bureau of the Census, incarcerated persons are counted at the facility in which they are incarcerated. The bill directs the Division of Legislative Services to prepare the adjusted population data, and the General Assembly and local governing bodies are required to use this data as the basis for reapportioning and drawing new districts. The Director of the Department of Corrections and the Board of Corrections are required to provide to the Division certain information about each person incarcerated who was incarcerated in a state or local correctional facility on the day the decennial census is taken, April 1 of a year ending in zero, for these purposes. The Division is directed to request such information from each agency operating a federal correctional facility in the Commonwealth, and persons incarcerated in a federal correctional facility for whom a record is not received shall be deemed to have a legal residence prior to entering custody that cannot be determined.

The substitute bill establishes the Virginia Redistricting Commission (the Commission) pursuant to Article II, Sections 6 and 6-A of the Constitution of Virginia. The Commission, tasked with establishing districts for the United States House of Representatives and for the Senate and the House of Delegates of the General Assembly, will consist of eight legislative commissioners and eight citizen commissioners. The legislative commissioners consist of four members of the Senate of Virginia and four members of the House of Delegates, with equal representation given to the political parties having the highest and next highest number

of members in their respective houses. The citizen commissioners are chosen by a selection committee consisting of five retired judges of the circuit courts of Virginia, from lists submitted to the selection committee by the Speaker of the House of Delegates, the leader in the House of Delegates of the political party having the next highest number of members in the House of Delegates, the President pro tempore of the Senate of Virginia, and the leader in the Senate of the political party having the next highest number of members in the Senate. The bill contains eligibility requirements for the citizen commissioners, including restrictions on holding or having held partisan national or state public office. As part of the application process for service on the Commission, the Division of Legislative Services acts as a repository for applications submitted by interested persons and is tasked with screening out applicants who are ineligible or submit incomplete applications. The applications of the citizen candidates selected by political leadership and submitted for consideration to the selection committee are public records.

The bill also directs the Division of Legislative Services to provide staff support to the Commission in the redistricting of congressional and state legislative districts. The Commission is required to submit to the General Assembly plans of districts within certain time periods, and the bill sets out criteria by which the districts are to be drawn, including equal population, contiguity, compactness, racial and ethnic fairness, respect for existing political boundaries, and respect for existing communities of interest. The bill prohibits districts from being drawn for the purpose of favoring or disfavoring any political party, incumbent legislator or member of Congress, or other individual or entity. Provisions to ensure public participation in the redistricting process are included. If efforts to establish districts fail, the Supreme Court of Virginia is responsible for establishing districts, and the bill directs the Court to enact a rule by March 1, 2021, establishing a procedure for implementing this requirement.

The substitute bill has a contingent effective date of November 15, 2020, provided that the voters approve the amendments to Article II of the Constitution of Virginia, amending Section 6 and adding Section 6-A, at the November 2020 general election.

6. **Budget Amendment Necessary:** See item 8.
7. **Fiscal Impact Estimates:** Indeterminate.
8. **Fiscal Implications:** The substitute bill is subject to a constitutional amendment. Section 30-19.9, Code of Virginia, requires the State Board of Elections to run advertisements in state newspapers and prepare posters and pamphlets providing public notice about proposed constitutional amendments. The Department of Elections estimates one-time costs of \$95,000 related to one constitutional amendment, which is based on the cost of advertising and printing proposed constitutional amendments in 2018 and feedback from the Virginia Press Association. This amount consists of approximately \$55,000 estimated for newspaper advertising costs and \$40,000 for printing of posters and pamphlets.

If the Constitutional amendment is passed, the substitute bill has fiscal impact on three

legislative agencies and the Department of Corrections.

The House of Delegates and the Senate of Virginia will be responsible for the interim meeting compensation of its members on the Commission. With an expectation of up to ten meetings per year, the House estimates the compensation of its four legislative members to be \$12,000 annually. The Senate, having the same number of members and meetings anticipated, estimates \$12,000 per year for the same purpose.

The largest impact to legislative agencies will likely be to be the Division of Legislative Services (DLS). DLS indicates that there will be additional costs in the staffing and application-process responsibilities placed on the agency by the bill, however, some of these costs are indeterminate at this time:

Whereas most legislative commissions or councils average four local meeting per year, DLS anticipates the need to coordinate and staff at least 10 meetings and some will not be local. The constitutional amendment called for in the bill provides for at least six public hearings in different parts of the Commonwealth, three prior to the Commission proposing plans for districts and three prior to the Commission voting to submit plans for districts to the General Assembly. Additionally, the Commission is specifically required to have a public meeting for selection of a chairman. For these Commission meetings, DLS staff would be required to attend and provide legal, technical, and administrative support. Staff will need to have travel expenses reimbursed, including accommodations if overnight travel is required.

The second area of fiscal impact to DLS are the bill's requirements involving an application process by which citizens of the Commonwealth may apply to serve as citizen commissioners on the Commission. DLS anticipates its role in this process would involve the following:

- The agency is required to assist the Selection Committee with the development of the application and process.
- The agency is required to make available a paper application and to provide electronic access for electronic submission of applications.
- The agency is tasked with acting as the repository for completed applications and accompanying documentation.
- The agency is directed to review all applications submitted to ensure an applicant's eligibility and removing ineligible applicants from an applicant pool.
- The agency is directed with providing to legislative leaders the applications and documentation submitted by applicants who are eligible for service on the Commission.
- Additionally, funds may be necessary to establish and maintain a database of applicants and their submitted applications and documentation.

To handle the application processing, DLS estimates the need for one full position at a cost of \$88,040 per year to cover salary and benefits.

In regards to population data and the redistricting of prison populations, DLS notes that the bill allows the agency to determine the format of and how the information is to be provided. The information, however, would have to be incorporated into the census data provided by the Census Bureau. The agency does not have the knowledge set for this incorporation. Therefore, there may be some costs associated with securing an application vendor to facilitate the incorporation of this data. The Department of Corrections states that there would be minimal impact on the agency from the bill's requirements.

It should be noted that \$1,069,500 per year is provided in Item 479 of Senate Bill 30 to support the needs of a Virginia Redistricting Commission and associated costs.

- 9. Specific Agency or Political Subdivisions Affected:** The Joint Reapportionment Committee, the Virginia Redistricting Commission, the Redistricting Commission Selection Committee, the State Board of Elections, the Department of Corrections, the Division of Legislative Services, the House of Delegates, and the Senate of Virginia.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** The bill is very similar to Senate Substitute Bill 203.