

VIRGINIA ACTS OF ASSEMBLY -- 1995 SESSION

CHAPTER 249

An Act to amend and reenact §§ 2.1-121.1, 15.1-37.4, 15.1-571.1, 15.1-803, 24.2-306, and 24.2-312 of the Code of Virginia; to amend the Code of Virginia by adding in Chapter 3 of Title 24.2 an article numbered 2.1, consisting of §§ 24.2-304.1 through 24.2-304.6; and to repeal §§ 15.1-37.5 through 15.1-37.9, 15.1-527.2, 15.1-804, 15.1-806, and 15.1-807 of the Code of Virginia, relating to counties, cities, and towns; reapportionment of local election districts.

[S 681]

Approved March 16, 1995

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.1-121.1, 15.1-37.4, 15.1-571.1, 15.1-803, 24.2-306, and 24.2-312 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Chapter 3 of Title 24.2 an article numbered 2.1, consisting of §§ 24.2-304.1 through 24.2-304.6, as follows:

§ 2.1-121.1. Legal service in certain redistricting proceedings.

Upon notification by a county, city or town of a pending civil action challenging the legality of its election district boundaries as required by § ~~15.1-37.5~~ 24.2-304.5, the Attorney General shall review the papers in the civil action and may represent the interests of the Commonwealth in developing an appropriate remedy that is consistent with requirements of law, including but not limited to Article VII, Section 5 of the Constitution of Virginia or Chapter 4-2 (§ ~~24.1-40.7~~ et seq.) of Title 24.1 3 (§ 24.2-300 et seq.) of Title 24.2.

§ 15.1-37.4. Election of governing bodies of counties, cities and towns; number of members.

The governing body of every county, city, and town shall be elected by the qualified voters of such county, city, and town. If the members, or any of the members, of the governing body of a county, city, or town are elected by districts or wards, each such district or ward 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. The governing body of any county, city or town shall be composed of not less than three nor more than eleven members. Nothing in this section shall preclude the apportionment of more than one member of the governing body of any county, city, or town to a single district or ward.

The governing body of any county may provide by ordinance for a combination of county-wide and less than county-wide election districts and such combination of election districts shall not be a change in the form of county government. Nothing in this section shall preclude the county-wide election of the governing body, combined with a geographical residence requirement that members of the governing body be residents of designated magisterial or election districts in accordance with the provisions of § 15.1-527.2. The local electoral board and the State Board of Elections shall be notified of changes by the mailing of certified copies of the ordinance.

§ 15.1-571.1. Boundaries of magisterial districts.

A. The several magisterial districts in the different counties of the Commonwealth, with the boundary lines and names thereof respectively shall be as the governing body of such counties may establish. The districts shall be composed of contiguous and compact territory and be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district. Whenever in the opinion of the governing body it is necessary, or Subject to the provisions of § 24.2-304.1, whenever the boundaries of such county have been altered, the governing body shall, as may be necessary, redistrict the county in magisterial districts, change the boundaries of existing districts, change the name of any district, or increase or diminish the number of districts.

B. Whenever redistricting of magisterial or election districts is required as a result of annexation, the governing body of such county shall, within a reasonable time from the effective date of such annexation, not to exceed ninety days, commence the redistricting process which shall be completed within a reasonable time thereafter, not to exceed twelve months.

C. The governing body of a county may by ordinance provide that the magisterial districts of the county shall remain the same, but that representation on the governing body shall be by election districts, in which event all sections of this Code providing for election or appointment on the basis of magisterial districts shall be construed to provide for election or appointment on the basis of election districts, including appointment to a school board as prescribed by §§ 22.1-36 and 22.1-44 of this Code.

D. Notwithstanding the provisions of § ~~24.1-40.3~~, the governing body of Lunenburg County may, by resolution, increase the number of election districts by adding an at-large district. Such increase shall not have the effect of altering the existing form of county government in such county.

§ 15.1-803. Number of wards in city; how changed.

In each city of this Commonwealth there shall be as many wards as the city council may establish.

The wards shall be composed of contiguous and compact territory and be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the ward. Whenever it becomes necessary because the corporate limits of the city have been extended or contracted, the city council shall redistrict the city into wards, change the boundaries of existing wards, or increase or diminish the number of wards. But in no case shall the city council redistrict the city into wards or change the boundaries of existing wards, except insofar as it may be necessary to maintain wards which meet the test of equitable population distribution, or to change such boundaries for the purpose of attaching newly annexed territory of such existing ward or wards as may be contiguous thereto; oftener than once every five years, except upon a recorded vote of three-fourths of the members elected to the council or three-fourths of the members elected to each branch thereof when the council is composed of two branches; and in every such case the reason therefor shall be set forth in the ordinance providing for such redistricting.

Article 2.1.

Reapportionment of Local Election Districts.

§ 24.2-304.1. At-large and district elections; reapportionment 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 ten 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 reapportioning representation in 1971 and every ten years thereafter, the governing body of a county, city, or town shall use population figures of the most recent decennial United States census for such county, city, or town.

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 which 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 reapportionment are invalid under the provisions of this subsection, the immediately pre-existing districts shall remain in force and effect until validly reapportioned in accordance with law.

§ 24.2-304.2. Governing body authorized to expend funds for reapportionment.

The governing body of each county, city, or town is authorized to expend funds and employ persons as it may deem necessary to carry out the responsibilities relating to reapportionment provided by law.

§ 24.2-304.3. Recording reapportionment ordinance; notice requirements.

A copy of the ordinance reapportioning representation in the governing body of a county, city, or town, including a description of the boundaries and a map showing the boundaries of the districts or wards, shall be recorded in the official minutes of the governing body.

The clerk of the county, city, or town shall send a certified copy of the ordinance, including a description of the boundaries and a map showing the boundaries of the districts or wards, to the local electoral board, Secretary of the Commonwealth, State Board of Elections, and Division of Legislative Services.

§ 24.2-304.4. Mandamus action for failure to reapportion districts or wards.

Whenever the governing body of any county, city or town fails to perform the duty of reapportioning the representation on the governing body among the districts or wards of the county, city, or town, or fails to change the boundaries of districts or wards, as prescribed by law, mandamus shall lie in favor of any citizen of such county, city, or town, to compel the performance of such duty.

Whenever the governing body of any county, city or town changes the boundaries, or increases or diminishes the number of districts or wards, or reapportions the representation in the governing body as prescribed by law, the action shall not be subject to judicial review, unless it is alleged that the representation is not proportional to the population of the district or ward. If such allegation is made in

a bill of complaint filed in the circuit court for the county, city or town, the court shall determine whether the action of the governing body complies with the constitutional requirements for redistricting and reapportionment. Appeals from the court's decision shall be as in any other suit.

§ 24.2-304.5. Notification of certain civil actions.

Any county, city, or town made a defendant in any civil action challenging the legality of its election district boundaries shall immediately notify the Attorney General of the pending civil action for review pursuant to § 2.1-121.1.

§ 24.2-304.6. Effect of reapportionment on appointments and terms of local officers, school board and planning commission members.

County, city, or town officers, including members of the school board or planning commission, in office on the effective date of a reapportionment or redistricting ordinance, shall complete their terms of office, regardless of loss of residency in a particular district due to reapportionment or redistricting.

§ 24.2-306. Changes not to be enacted within sixty days of general election; notice requirements.

A. No change in any local election district, precinct, or polling place shall be enacted within sixty days next preceding any general election. Notice shall be published prior to enactment in a newspaper having general circulation in the election district or precinct once a week for two successive weeks. The published notice shall state where descriptions and maps of proposed boundary and polling place changes may be inspected.

B. Notice of any adopted change in any election district or polling place shall be mailed to all registered voters whose election district or polling place is changed at least fifteen days prior to the next general, special, or primary election.

C. Each county, city, and town shall comply with the applicable requirements of law, including §§ 15.1-37.4, 15.1-37.7, and 24.2-301, for sending and 24.2-304.3, and send copies of enacted changes to the local electoral board, the State Board, and the Division of Legislative Services.

§ 24.2-312. Effective date of other redistricting measures; elections following annexation.

A. ~~As provided in § 15.1-37.5-1,~~ Any redistricting, other than the decennial redistricting, of any county, city, or town shall be effective at midnight December 31 of the year in which the redistricting occurs.

B. Members of county, city, and town governing bodies in office when any such redistricting measure is adopted shall complete their terms of office. The elections for their successors shall be held at the general election next preceding the expiration of the terms of office of the incumbent members and shall be conducted on the basis of the districts set out in the measures to accomplish the redistricting.

C. When a county has been redistricted as a result of annexation and the redistricting occurs in the year of a regularly scheduled November general election for members of the county's board of supervisors, the November general election shall be conducted from the newly established districts so long as the redistricting measure has been adopted prior to March 15 of the year of the election.

D. When a city or town has been redistricted as a result of annexation and the redistricting occurs prior to a regularly scheduled May general election for members of the city's or town's governing body, the May general election shall be conducted from the newly established districts so long as the redistricting measure has been adopted prior to the November 15 immediately preceding the election.

2. That §§ 15.1-37.5 through 15.1-37.9, 15.1-527.2, 15.1-804, 15.1-806, and 15.1-807 of the Code of Virginia are repealed.