

087632220

SENATE BILL NO. 38

Offered January 9, 2008

Prefiled December 19, 2007

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 24.2-301.4, relating to preparation of and standards for state legislative and congressional redistricting plans; establishment of the Bipartisan Redistricting Commission.

Patrons—Deeds, Cuccinelli, Edwards, Howell, Miller, J.C., Northam, Petersen and Stolle; Delegate: Valentine

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 24.2-301.4, as follows:

*Article 1.1.**The Bipartisan Redistricting Commission Act.**§ 24.2-301.2. The Bipartisan Redistricting Commission Act.*

This article shall be known as the Bipartisan Redistricting Commission Act.

§ 24.2-301.3. Establishment of the Commission; standards for redistricting.

A. The Commission. House of Delegates, state Senate, and congressional district lines shall be drawn by the temporary Bipartisan Redistricting Commission (hereafter the Commission) and then presented to the General Assembly for enactment in accordance with the Constitution of Virginia. The Commission shall be constituted in each year ending in zero, perform its duties as stated herein, and be dissolved in the following year ending in one.

B. Standards for Redistricting. The Commission shall draw district lines in accordance with the following Standards for Redistricting (hereafter Standards):

1. All districts shall be composed of contiguous and compact territory and shall be as equal in population as is practicable and in compliance with federal law. No district shall be composed of territory contiguous only at a point.

2. All districts shall be drawn to comply with the Virginia and United State Constitutions, federal law, the federal Voting Rights Act as amended, and relevant case law.

3. All districts, to the extent practicable, shall respect the boundary lines of existing political subdivisions. More populous subdivisions shall be divided between or among districts before less populous subdivisions are divided, excluding those subdivisions that straddle the boundary line of geographically larger subdivisions. The number of counties and cities divided among multiple districts shall be as few as practicable.

4. All districts shall encompass communities of interest to the extent practicable.

5. No district shall be drawn with consideration for the impact on incumbent legislators, members of Congress, or known candidates for office.

6. No district shall be drawn to promote, or for the purpose of favoring, the interests of a political party.

7. All district boundaries shall be drawn to promote competitiveness to the extent practicable; however, no district shall be made artificially competitive in violation of other Standards.

8. All district boundaries shall be drawn to maintain the core geographical areas of existing districts, to the extent not in conflict with other Standards.

C. Commission eligibility.

1. The Supreme Court shall nominate a pool of 24 retired judges willing to serve as members of the Commission. No more than 12 of the 24 retired judges shall have the same party affiliation, and the two political parties with the highest and next highest number of members in the General Assembly shall be equally represented among the nominated retired judges.

2. Only retired Virginia state or federal judges, who have never held elected partisan public office or political party office and have not received income during the past 12 months from the General Assembly, a committee thereof, the United States Congress, a committee thereof, a political party, a partisan candidate, or a committee controlled by a partisan candidate, shall be included in the pool.

3. Members of the pool shall pledge in writing that he or she will not run for election in the congressional, Senate, and House of Delegates districts drawn by him or her pursuant to this article and will not accept, for at least five years from the date of appointment to the Commission, Virginia

INTRODUCED

SB38

58 *state public employment or public office, other than judicial employment, judicial office, or a teaching*
59 *position.*

60 *4. Nominations by the Supreme Court shall be made by August 1 of the year ending in zero, but not*
61 *before July 1 of that year.*

62 *D. Appointments to the Commission.*

63 *1. From the pool of retired judges nominated by the Supreme Court, the Speaker of the House of*
64 *Delegates, the minority leader of the House of Delegates, the President pro tempore of the Senate, and*
65 *the minority leader of the Senate (hereafter Appointing Authorities) shall each appoint one member of*
66 *the pool to serve on the Commission. No retired judge may be appointed by more than one Appointing*
67 *Authority.*

68 *2. Appointments by the Appointing Authorities shall be made by September 1 of the year ending in*
69 *zero.*

70 *3. The appointed Commissioners shall hold a public meeting by October 1 of the year ending in zero*
71 *at which they shall appoint a fifth Commissioner by a majority vote from the pool nominated by the*
72 *Supreme Court. The fifth Commissioner shall serve as Chairman of the Commission.*

73 *4. No person shall be appointed to the Commission who is related to any Appointing Authority,*
74 *member of the General Assembly, or member of the Virginia delegation to the United States Congress*
75 *as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife,*
76 *grandfather, grandmother, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law,*
77 *sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or*
78 *half-sister.*

79 *5. Upon their appointment, Commissioners shall be enjoined from material discussion of the*
80 *redistricting process with any of the Appointing Authorities or their agents.*

81 *6. A vacancy on the Commission shall be filled by the Appointing Authority who made the initial*
82 *appointment to that position within 15 days after the vacancy occurs.*

83 *E. Commission staff.*

84 *The Division of Legislative Services shall provide to the Commission sufficient staff with the requisite*
85 *expertise as shall be reasonably requested by the Commission. The staff of the Commission shall be*
86 *under the control of the Chairman of the Commission from the time of the appointment of staff to the*
87 *dissolution of the Commission. The staff of the Commission shall not be deprived of their employment*
88 *during this period of time without the express consent of the Commission. The Commission may request*
89 *the assistance of outside counsel or experts as it shall deem necessary.*

90 *1. Outside counsel or experts shall be certified by the Commission as nonpartisan at a public*
91 *meeting.*

92 *2. No outside counsel or expert shall be appointed by the Commission who is related to any*
93 *Appointing Authority, member of the General Assembly, or member of the Virginia delegation to the*
94 *United States Congress as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin,*
95 *nephew, niece, husband, wife, grandfather, grandmother, father-in-law, mother-in-law, son-in-law,*
96 *daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother,*
97 *stepsister, half-brother, or half-sister.*

98 *3. Outside counsel or experts shall never have held elected partisan public office or political party*
99 *office and shall not have received income during the past 12 months from the General Assembly, a*
100 *committee thereof, the United States Congress, a committee thereof, a political party, a partisan*
101 *candidate, or a committee controlled by a partisan candidate. Restrictions on previous employment by*
102 *the Commonwealth shall not be construed to prevent employees of public colleges and universities from*
103 *becoming outside counsel or experts.*

104 *§ 24.2-301.4. The district map creation process.*

105 *A. General. All deadlines defined in this section, excepting the public meeting of the Commission at*
106 *which it decides on operating procedures and other rules, may, at the discretion of the Commission be*
107 *extended by the number of days after January 1 in the year ending in one before the Commonwealth is*
108 *provided with the enumeration data and census geography provided by the Bureau of the Census*
109 *pursuant to Public Law § 94-171. Notwithstanding this subsection, the Commission shall provide the*
110 *First Official District Plan to the General Assembly no later than June 15 of the year ending in one. If*
111 *the Commission so decides, it may create and deliver the district plans for the General Assembly and*
112 *the United States Congress as separate bills.*

113 *B. Rulemaking. The Commission shall, before December 1 of the year ending in zero, hold a public*
114 *meeting at which it shall decide upon and cause to be published on paper and on the Internet, the*
115 *operating procedures and other rules under which it will perform its duties. It will also publish a*
116 *schedule of public meetings to be held during the redistricting process. All district maps produced by*
117 *the Commission shall be in accordance with the Standards set out in § 24.2-301.3. The Commission*
118 *shall keep records of its decisions, directions given to staff, and all other actions and activities as may*
119 *be required to comply with the federal Voting Rights Act as amended and relevant laws and cases.*

C. Initial map creation with restricted data. Upon the receipt of census data, the Commission and its staff shall create initial district maps. No individuals other than the Commission members, its staff, and its certified counsel and experts shall be allowed to participate in the creation of initial maps. Initial maps shall be created without the use of any of the following restricted data:

1. Data, hereafter Type 1, regarding election outcomes, voting history, voting trends or patterns, or the partisan affiliation of voters.

2. Data, hereafter Type 2, regarding the place of residence of incumbent legislators, members of Congress, or known candidates for office.

3. Data, hereafter Type 3, regarding demographic information, except that provided by the Bureau of the Census in its enumeration and definition of census blocks and unless required by the federal Voting Rights Act as amended or other law.

D. Plan testing. Once an initial map or multiple initial maps have been created, the Commission shall access restricted data of Types 1 and 2 for the purpose of ensuring that the initial plans comply fully with the Standards using this data.

E. Release of plan for public comment. When the initial plans have been conformed to the Standards, and no later than February 15 of the year ending in one, the Commission shall hold a public meeting at which it shall certify a single district map plan as the Plan for Public Comment, all relevant details of the Plan, and information on the Standards for distribution at the public meeting and on the Internet.

F. Public comment period. During a period of time of no fewer than 15 days, the Commission shall hold at least five public meetings at which it will receive public comment on the Plan for Public Comment. These meetings shall be publicized as the Commission determines, attended by all Commission members, held at times convenient for the public to attend, held for no less than three hours each, and held in geographically disparate areas of the Commonwealth. A record of each meeting shall be made, and the Commission shall cause a summary of the comments to be published on the Internet and by such other means as the Commission determines.

G. Modifications of Plan. On conclusion of the public comment period, the Commission may modify the Plan for Public Comment to account for the comments, and the modified plan shall comply with the Standards.

H. Submission of Plan to General Assembly. Within 15 days of the completion of the public comment period, the Commission shall hold a public meeting at which it certifies a First Official District Plan. It shall cause the First Official District Plan to be submitted to each of the Appointing Authorities in the form of a bill for introduction.

I. Legislative process.

1. First plan. The General Assembly shall consider the bill containing the First Official District Plan within a short period of time and under rules which do not allow for amendments to the bill. If the Plan fails to pass, the General Assembly shall state the reasons for rejection of the Plan and provide those reasons to the Commission. The Commission shall modify the Plan in accordance with the Standards and the reasons given by the General Assembly for rejection and present a Second Official District Plan to the General Assembly.

2. Second plan. The General Assembly shall consider the Second Official District Plan in the same manner as the First Plan. If the Plan fails to pass, the General Assembly shall state the reasons for rejection of the Plan and provide those reasons to the Commission. The Commission shall modify the Plan in accordance with the Standards and the reasons given by the General Assembly for rejection and present a Third Official District Plan to the General Assembly.

3. Third plan. The General Assembly shall consider the Third Official District Plan in the same manner as the First and Second Plans. However, the General Assembly shall have authority to amend the bill. The bill shall be presented to the Governor pursuant to the Constitution.

J. Submission under Section 5 of the Voting Rights Act. On passage of a bill, and its enactment into law, to define the election districts for the General Assembly and the United States House of Representatives, the Commission shall cooperate with and assist the Attorney General to the extent necessary to complete the submission of the bill pursuant to Section 5 of the Voting Rights Act.

K. Dissolution. On notification of clearance as required by the Voting Rights Act, the Commission shall be dissolved. The Commission shall be reconstituted with the identical membership in any case where the federal government or a court determines that modifications to the plan are required. The reconstituted Commission shall follow, as closely as practicable, the process set out in this article to meet the requirements of the government or court.