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SENATE BILL NO. 598

Offered January 10, 2018

Prefiled January 9, 2018

A *BILL 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 the Virginia Interim Redistricting Commission; criteria for remedial redistricting plans.*

Patron—Vogel

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 Article 2 of Chapter 3 of Title 24.2 a section numbered 24.2-304.04 as follows:

§ 24.2-304.04. Virginia Interim Redistricting Commission; criteria for remedial redistricting plans.

A. If any congressional or state legislative district drawn as required by Article II, Section 6 of the Constitution of Virginia shall be declared unlawful or unconstitutional, in whole or in part, by order of any state or federal court, an interim redistricting commission, to be named the Virginia Interim Redistricting Commission (the Commission), shall be established pursuant to this section to determine and propose a redistricting plan to remedy that unlawful or unconstitutional district.

B. The Commission shall consist of seven members. No member of the Commission or a member of his immediate family shall be a member or employee of the Congress of the United States or of the Virginia General Assembly or be employed to lobby before either legislative body. The members of the Commission shall be appointed with due consideration to geographic diversity. Of the seven members, four shall be identified as members of political parties and three shall be independent public officials whose positions require the exercise of apolitical or nonpartisan judgment and discretion.

1. Appointments to the Commission shall be made no later than 30 days after the date of the court order declaring a congressional or state legislative district to be unlawful or unconstitutional. 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 each shall appoint a member of his political party. The three independent public officials shall be the Auditor of Public Accounts, the State Inspector General, and the Executive Director of the Virginia State Bar. The Auditor of Public Accounts shall serve as the chairman of the Commission.

2. The members of the Commission shall take the oath of office administered by the Chief Justice of the Supreme Court of Virginia or his designee.

3. All administrative and procedural decisions by the Commission shall be by a majority vote of four members. The final approval and submission of a remedial redistricting plan shall be by a majority vote of five of the seven members of the Commission, including at least one vote from each of the political parties represented and from among the independent members.

C. The Commission shall hold its first meeting no later than 45 days after the date of the court order declaring a congressional or state legislative district to be unlawful or unconstitutional. If the court order declaring a district to be unlawful or unconstitutional is appealed and a stay is granted by the court, any further action by the Commission shall be suspended until the appeal is concluded or the stay is lifted.

1. Within the period of time prescribed by the court but no later than 90 days following the date of its first meeting, the Commission shall approve, by a majority vote of five of its seven members as prescribed in subdivision B 3, a proposed redistricting plan to remedy the unlawful or unconstitutional district and shall submit such plan to the Clerks of the House of Delegates and the Senate of Virginia and to the Secretary of the Commonwealth for consideration by the General Assembly and the Governor.

2. If the Commission is unable to approve for submission a remedial redistricting plan by the majority vote required by subdivision B 3 within the prescribed period of time, the two plans receiving the most number of votes shall be submitted to the Clerks of the House of Delegates and the Senate of Virginia and to the Secretary of the Commonwealth for consideration by the General Assembly and the Governor.

3. The submission of any proposed remedial redistricting plan shall include a record of the votes taken on the plan, a report summarizing the statistical information and testimony received by the

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59 Commission during its proceedings, and any minority reports, comments, or conclusions deemed
60 appropriate for consideration by Commission members.

61 4. The Commission may solicit, receive, and consider redistricting plans or maps from the general
62 public in considering the establishment of a remedial redistricting plan to be submitted pursuant to this
63 subsection.

64 D. The Commission shall hold at least one public hearing to receive and consider comments from
65 the public on the remedial plans subject to consideration. The Commission shall conduct its meeting and
66 shall vote on the approval of a remedial redistricting plan in an open public meeting located in the City
67 of Richmond, allowing for comment and input from the public in its consideration of proposed
68 redistricting plans. The Commission shall give notice of any public hearing or meeting at least 48 hours
69 in advance in either print or electronic media, or both.

70 E. Any congressional or state legislative district drawn by the Commission shall be constituted so as
71 to adhere to the following standards and criteria:

72 1. Legislative and congressional districts shall be established on the basis of population. Senate and
73 House of Delegates districts shall each have a population that is as substantially equal to the population
74 of every other respective district as practicable. Congressional districts shall have populations that are
75 as nearly equal as practicable. The General Assembly shall be guided by the most authoritative federal
76 and state judicial decisions defining standards for equal population for the respective districts.
77 Variations in the size of districts, within the deviations permitted by applicable law, may be permitted if
78 necessary to facilitate compliance with one or more of the other standards or criteria set forth in this
79 section.

80 2. Districts shall be drawn in accordance with the requirements of all applicable federal and state
81 laws and judicial decisions interpreting such laws, including the Equal Protection Clause of the United
82 States Constitution, the provisions of the federal Voting Rights Act of 1965, as amended, and any other
83 such laws addressing racial and ethnic fairness.

84 3. Each legislative and congressional district shall be composed of contiguous territory. A district
85 shall be deemed contiguous if it is possible to travel from one point in the district to any other point in
86 the district without crossing the boundary of the district. Territory that touches the rest of a district only
87 by a point shall not be deemed contiguous territory. Districts divided by water shall be deemed
88 contiguous if a common means of transport, such as a bridge or ferry, connects the two parts of the
89 district or, if the water were to be removed, the land on one side of the water would be contiguous with
90 the land on the opposite side of the water. Connections by water running downstream or upriver are not
91 permissible.

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

100 5. Existing political boundaries shall be respected to the maximum extent possible, and departures
101 from existing political boundaries may be permitted only if necessary to comply with one or more of the
102 other standards or criteria set forth in this section. Political boundaries shall include the boundaries of
103 counties, cities, towns, county magisterial and election districts, municipal councilmanic districts, and
104 voting precincts. If a departure from existing political boundaries is necessary in order to comply with
105 other districting criteria, the district lines shall be drawn utilizing clearly observable physical
106 boundaries. A "clearly observable boundary" includes (i) any named road or street; (ii) any road or
107 highway that is a part of the federal highway system or the primary or secondary state highway system;
108 (iii) any river, stream, or drainage feature shown as a polygon boundary on the TIGER/Line Files of
109 the United States Bureau of the Census; or (iv) any other natural or constructed or erected permanent
110 physical feature that is shown on an official map issued by the Virginia Department of Transportation,
111 on a United States Geological Survey topographical map, or as a polygon boundary on the TIGER/Line
112 Files of the United States Bureau of the Census. No property line or subdivision boundary shall be
113 deemed to be a clearly observable boundary unless it is marked by a permanent physical feature that is
114 shown on an official map issued by the Virginia Department of Transportation, on a United States
115 Geological Survey topographical map, or as a polygon boundary on the TIGER/Line Files of the United
116 States Bureau of the Census.

117 6. Existing communities of interest shall be respected to the maximum extent practicable. Districts
118 should be drawn in such a way as to avoid dividing communities of interest without violating the
119 requirements of the preceding subdivisions. District lines shall not be drawn to divide homogeneous
120 neighborhoods or any geographically defined group of people living in an area who share similar

121 social, cultural, and economic interests. Other examples of communities of interest are recognized
122 minority and ethnic enclaves, residential subdivisions, and recognized but unincorporated areas. A
123 community of interest does not include a community based upon political affiliation or relationship with
124 a political party, elected official, or candidate for office.

125 7. No district shall be drawn for the purpose of favoring or disfavoring any political party,
126 incumbent legislator or member of Congress, or potential candidate. Political data, including addresses
127 of incumbent legislators or members of Congress, political affiliations of voters, or previous election
128 results, shall not be used in the drawing of any legislative or congressional district, except as may be
129 necessary to ensure that racial or ethnic minorities are able to elect a preferred candidate of choice in
130 a district drawn pursuant to subdivision 2.