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HOUSE BILL NO. 758

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee on Privileges and Elections
on February 7, 2020)

(Patrons Prior to Substitute—Delegates VanValkenburg and Sickles [HB877])

A BILL to amend and reenact §§ 8.01-3, 24.2-304.1, 24.2-306, 24.2-309.2, 30-263, 30-264, 30-265, and 53.1-10 of the Code of Virginia and to amend the Code of Virginia by adding in Title 30 a chapter numbered 60, consisting of sections numbered 30-376 through 30-387, and by adding a section numbered 53.1-5.2, relating to redistricting; Virginia Redistricting Commission; congressional and state legislative districts; standards and criteria; population data.

Be it enacted by the General Assembly of Virginia:

1. That §§ 8.01-3, 24.2-304.1, 24.2-306, 24.2-309.2, 30-263, 30-264, 30-265, and 53.1-10 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 30 a chapter numbered 60, consisting of sections numbered 30-376 through 30-387, and by adding a section numbered 53.1-5.2 as follows:

§ 8.01-3. Supreme Court may prescribe rules; effective date and availability; indexed, and annotated; effect of subsequent enactments of General Assembly.

A. The Supreme Court, subject to §§ 17.1-503 and 16.1-69.32, may, from time to time, prescribe the forms of writs and make general regulations for the practice in all courts of the Commonwealth; and may prepare a system of rules of practice and a system of pleading and the forms of process and may prepare rules of evidence to be used in all such courts. This section shall be liberally construed so as to eliminate unnecessary delays and expenses.

B. *The Supreme Court, subject to § 30-386, shall enact rules and procedures as may be necessary for implementing the requirements of Section 6-A of Article II of the Constitution of Virginia, empowering the Supreme Court to establish congressional or state legislative districts as provided for in that section.*

C. New rules and amendments to rules shall not become effective until 60 days from adoption by the Supreme Court, and shall be made available to all courts, members of the bar, and the public.

~~C. D.~~ *The Virginia Code Commission shall publish and cause to be properly indexed and annotated the rules adopted by the Supreme Court, and all amendments thereof by the Supreme Court, and all changes made therein pursuant to subsection ~~D~~ E.*

~~D. E.~~ *The General Assembly may, from time to time, by the enactment of a general law, modify or annul any rules adopted or amended pursuant to this section. In the case of any variance between a rule and an enactment of the General Assembly such variance shall be construed so as to give effect to such enactment.*

~~E. F.~~ *Any amendment or addition to the rules of evidence shall be adopted by the Supreme Court on or before November 15 of any year and shall become effective on July 1 of the following year unless the General Assembly modifies or annuls any such amendment or addition by enactment of a general law. Notwithstanding the foregoing, the Supreme Court, at any time, may amend the rules to conform with any enactment of the General Assembly and correct unmistakable printer's errors, misspellings, unmistakable errors to statutory cross-references, and other unmistakable errors in the rules of evidence.*

~~F. G.~~ *When any rule contained in the rules of evidence is derived from one or more sections of the Code of Virginia, the Supreme Court shall include a citation to such section or sections in the title of the rule.*

§ 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.

60 C. For the purposes of redistricting and reapportioning representation in 2004 2021 and every 10
61 years thereafter, the governing body of a county, city, or town shall use the most recent decennial
62 population figures for such county, city, or town from the United States Bureau of the Census, ~~which~~
63 ~~figures are identical to those from the actual enumeration conducted by the United States Bureau of the~~
64 ~~Census for the apportionment of representatives in the United States House of Representatives, except~~
65 ~~that the as adjusted by the Virginia Redistricting Commission, through the Division of Legislative~~
66 ~~Services, pursuant to § 30-383. The census data for these redistricting and apportionment purposes will~~
67 not include any population figure that is not allocated to specific census blocks within the
68 Commonwealth, even though that population may have been included in the apportionment population
69 figures of the Commonwealth for the purpose of allocating United States House of Representatives seats
70 among the states. ~~The governing body of any county, city, or town may elect to exclude the adult~~
71 ~~inmate population of any federal, state, or regional adult correctional facility located in the locality from~~
72 ~~the population figures used for the purposes of the decennial reapportionment and redistricting. The~~
73 ~~adult inmate population so excluded shall be based on information provided by the facility as to the~~
74 ~~adult inmate population at the facility on the date of the decennial census.~~

75 D. Notwithstanding any other provision of general law or special act, the governing body of a
76 county, city, or town shall not reapportion the representation in the governing body at any time other
77 than that required following the decennial census, except as (i) provided by law upon a change in the
78 boundaries of the county, city, or town that results in an increase or decrease in the population of the
79 county, city, or town of more than one percent, (ii) the result of a court order, (iii) the result of a
80 change in the form of government, or (iv) the result of an increase or decrease in the number of districts
81 or wards other than at-large districts or wards. The foregoing provisions notwithstanding, the governing
82 body subsequent to the decennial redistricting may adjust district or ward boundaries in order that the
83 boundaries might coincide with state legislative or congressional district boundaries; however, no
84 adjustment shall affect more than five percent of the population of a ward or district or 250 persons,
85 whichever is lesser. If districts created by a reapportionment enacted subsequent to a decennial
86 reapportionment are invalid under the provisions of this subsection, the immediately preexisting districts
87 shall remain in force and effect until validly reapportioned in accordance with law.

88 **§ 24.2-306. Changes not to be enacted within 60 days of general election; notice requirements.**

89 A. No change in any local election district, precinct, or polling place shall be enacted within 60 days
90 next preceding any general election. Notice shall be published prior to enactment in a newspaper having
91 general circulation in the election district or precinct once a week for two successive weeks. The
92 published notice shall state where descriptions and maps of proposed boundary and polling place
93 changes may be inspected.

94 B. Notice of any adopted change in any election district, town, precinct, or polling place other than
95 in the location of the office of the general registrar shall be mailed to all registered voters whose
96 election district, town, precinct, or polling place is changed at least 15 days prior to the next general,
97 special, or primary election in which the voters will be voting in the changed election district, town,
98 precinct, or polling place. Notice of a change in the location of the office of the general registrar shall
99 be given by posting on the official website of the county or city, by posting at not less than 10 public
100 places, or by publication once in a newspaper of general circulation in the county or city within not
101 more than 21 days in advance of the change or within seven days following the change.

102 C. Each county, city, and town shall comply with the applicable requirements of law, including
103 §§ 24.2-304.3 and ~~30-264~~ 30-380, and send copies of enacted changes, including a Geographic
104 Information System (GIS) map showing the new boundaries of the districts or precincts, to the local
105 electoral board, the Department, and the Division of Legislative Services. Any county, city, or town that
106 does not have GIS capabilities may request the Department of Elections to create on its behalf a GIS
107 map showing the boundaries of the new districts or precincts, and the Department of Elections shall
108 create such a map.

109 **§ 24.2-309.2. Election precincts; prohibiting precinct changes for specified period of time.**

110 No county, city, or town shall create, divide, abolish, or consolidate any precincts, or otherwise
111 change the boundaries of any precinct, effective during the period from February 1, 2019, to May 15,
112 2021, except as (i) provided by law upon a change in the boundaries of the county, city, or town, (ii)
113 the result of a court order, (iii) the result of a change in the form of government, or (iv) the result of an
114 increase or decrease in the number of local election districts other than at-large districts. Any ordinance
115 required to comply with the requirements of § 24.2-307 shall be adopted on or before February 1, 2019.

116 If a change in the boundaries of a precinct is required pursuant to clause (i), (ii), (iii), or (iv), the
117 county, city, or town shall comply with the applicable requirements of law, including §§ 24.2-304.3 and
118 ~~30-264~~ 30-380, and send copies of the ordered or enacted changes to the State Board of Elections and
119 the Division of Legislative Services.

120 This section shall not prohibit any county, city, or town from adopting an ordinance revising precinct
121 boundaries after January 1, 2021. However, no revisions in precinct boundaries shall be implemented in

the conduct of elections prior to May 15, 2021.

§ 30-263. Joint Reapportionment Committee; membership; terms; quorum; compensation and expenses.

A. The Joint Reapportionment Committee (*the Joint Committee*) is established in the legislative branch of state government. The *Joint Committee* shall consist of five members of the Committee on Privileges and Elections of the House of Delegates and three members of the Committee on Privileges and Elections of the Senate appointed by the respective chairmen of the two committees. Members shall serve terms coincident with their terms of office.

B. The Joint Committee shall elect a chairman and vice-chairman from among its membership. A majority of the members of the *Joint Committee* shall constitute a quorum. The meetings of the *Joint Committee* shall be held at the call of the chairman or whenever the majority of the members so request.

C. The Joint Committee shall supervise activities required for the tabulation of population for the census and for the timely reception of precinct population data for reapportionment, and perform such other duties and responsibilities and exercise such supervision as may promote the orderly redistricting of congressional, state legislative, and local election districts.

D. Members shall receive such compensation as provided in § 30-19.12 and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Office of the Clerk of the House of Delegates and the Office of Clerk of the Senate for their respective members.

§ 30-264. Staff to Joint Reapportionment Committee.

A. The Division of Legislative Services (the Division) shall serve as staff to the Joint Reapportionment Committee. The Director of the Division, or his designated representative, shall serve as the state liaison with the United States Bureau of the Census on matters relating to the tabulation of the population for reapportionment purposes pursuant to United States Public Law 94-171. The governing bodies, electoral boards, and registrars of every county and municipality shall cooperate with the Division in the exchange of all statistical and other information pertinent to preparation for the census.

B. The Division shall maintain the current election district and precinct boundaries of each county and city as a part of the General Assembly's computer-assisted mapping and redistricting system. Whenever a county or city governing body adopts an ordinance that changes an election district or precinct boundary, the local governing body shall provide a copy of its ordinance, along with Geographic Information System (GIS) maps and other evidence documenting the boundary, to the Division.

C. The Division shall prepare and maintain a written description of the boundaries for the congressional, senatorial, and House of Delegates districts set out in Article 2 (§ 24.2-302 et seq.) of Chapter 3 of Title 24.2. The descriptions shall identify each district boundary, insofar as practicable, by reference to political subdivision boundaries or to physical features such as named roads and streets. The Division shall furnish to each general registrar the descriptions for the districts dividing his county or city. The provisions of Article 2, including the statistical reports referred to in Article 2, shall be controlling in any legal determination of a district boundary.

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

For the purposes of redrawing the boundaries of the congressional, state Senate, and House of Delegates districts after the United States Census for the year 2000 2020 and every 10 years thereafter, the General Assembly Virginia Redistricting Commission established pursuant to § 30-376 shall use the population data provided by the United States Bureau of the Census identical to those from the actual enumeration conducted by the Bureau for the apportionment of the Representatives of the United States House of Representatives following the United States decennial census, except that the as adjusted by the Virginia Redistricting Commission, through the Division of Legislative Services, pursuant to § 30-383. The census data used for this apportionment purpose shall not include any population figure which 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.

CHAPTER 60.

VIRGINIA REDISTRICTING COMMISSION.

§ 30-376. Virginia Redistricting Commission.

A. The Virginia Redistricting Commission is established in the legislative branch of state government. It shall be convened in the year 2020 and every 10 years thereafter for the purpose of establishing districts for the United States House of Representatives and for the Senate and the House of Delegates

183 of the General Assembly.

184 B. As used in this chapter:

185 "Census data" means the population data received from the United States Bureau of the Census
186 pursuant to P.L. 94-171.

187 "Commission" means the Virginia Redistricting Commission established pursuant to this chapter.

188 "Committee" means the Redistricting Commission Selection Committee established pursuant to
189 § 30-378.

190 "Partisan public office" means (i) an elective or appointive office in the executive or legislative
191 branch or in an independent establishment of the federal government; (ii) an elective office in the
192 executive or legislative branch of the government of the Commonwealth, or an office that is filled by
193 appointment and is exempt from the Virginia Personnel Act (§ 2.2-2900 et seq.); or (iii) an office of a
194 county, city, or other political subdivision of the Commonwealth that is filled by an election process
195 involving nomination and election of candidates on a partisan basis.

196 "Political party office" means an elective office in the national or state organization of a political
197 party, as defined in § 24.2-101.

198 **§ 30-377. Membership; terms; vacancies; chairman; quorum; compensation and expenses.**

199 A. The Virginia Redistricting Commission shall consist of 16 commissioners that include eight
200 legislative commissioners and eight citizen commissioners as follows: two commissioners shall be
201 members of the Senate of Virginia, representing the political party having the highest number of
202 members in the Senate and appointed by the President pro tempore of the Senate; two commissioners
203 shall be members of the Senate, representing the political party having the next highest number of
204 members in the Senate and appointed by the leader of that political party; two commissioners shall be
205 members of the House of Delegates, representing the political party having the highest number of
206 members in the House of Delegates and appointed by the Speaker of the House of Delegates; two
207 commissioners shall be members of the House of Delegates, representing the political party having the
208 next highest number of members in the House of Delegates and appointed by the leader of that political
209 party; and eight citizen commissioners who shall be selected by the Redistricting Commission Selection
210 Committee pursuant to § 30-379.

211 B. Legislative commissioners selected to serve as commissioners of the Commission shall be
212 appointed by the respective authorities no later than December 1 of the year ending in zero and shall
213 continue to serve until their successors are appointed. In making its appointments, the appointing
214 authorities shall give consideration to the racial, ethnic, geographic, and gender diversity of the
215 Commonwealth. Appointments to fill vacancies, other than by expiration of a term, shall be for the
216 unexpired terms. Vacancies shall be filled in the same manner as the original appointment, such that the
217 proper partisan balance of the Commission is maintained.

218 C. Citizen commissioners selected to serve as commissioners of the Virginia Redistricting
219 Commission shall be selected by the Redistricting Commission Selection Committee as provided in
220 § 30-379. In making its selections, the Committee shall give consideration to the racial, ethnic,
221 geographic, and gender diversity of the Commonwealth. Citizen commissioners shall be appointed no
222 later than January 15 of the year ending in one and shall continue to serve until their successors are
223 appointed. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired
224 terms. Vacancies shall be filled by the Commission selecting a replacement from the list submitted
225 pursuant to subsection E of § 30-379 from which the commissioner being replaced was selected, and
226 shall require an affirmative vote of a majority of the commissioners, including at least one commissioner
227 representing or affiliated with each political party.

228 D. Legislative commissioners shall receive such compensation as provided in § 30-19.12 and citizen
229 commissioners shall receive such compensation as provided in § 2.2-2813 for their services. All
230 members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of
231 their duties as provided in §§ 2.2-2813 and 2.2-2825. All such compensation and expense payments
232 shall come from existing appropriations to the Commission.

233 E. By February 1 of the year ending in one, the Commission shall hold a public meeting at which it
234 shall select a chairman from its membership. The chairman shall be a citizen commissioner and shall be
235 responsible for coordinating the work of the Commission. A majority of the commissioners appointed,
236 which majority shall include a majority of the legislative commissioners and a majority of the citizen
237 commissioners, shall constitute a quorum.

238 F. All meetings and records of the Commission shall be subject to the Virginia Freedom of
239 Information Act (§ 2.2-3700 et seq.), except as provided in subsection E of § 30-379. All records and
240 documents of the Commission, or any individual or group performing delegated functions of or advising
241 the Commission, related to the Commission's work, including internal communications and
242 communications from outside parties, shall be considered public information.

243 G. Commissioners, staff of the Commission, and any other advisor or consultant to the Commission
244 shall not communicate with any person outside the Commission about matters related to

reapportionment or redistricting outside of a public meeting or hearing. Written public comments submitted to the Commission, staff of the Commission, or any other advisor or consultant to the Commission shall not be a violation of this subsection.

H. In the event the Commission hires a lawyer or law firm, the Commission as an entity shall be considered the client of the lawyer or the law firm. No individual commissioner or group of commissioners shall be considered to be the client of the lawyer or the law firm.

§ 30-378. Redistricting Commission Selection Committee; chairman; quorum; compensation and expenses.

A. There shall be a Redistricting Commission Selection Committee established for the purpose of selecting the citizen commissioners of the Virginia Redistricting Commission. This committee shall consist of five retired judges of the circuit courts of Virginia.

B. By November 15 of the year ending in zero, the Chief Justice of the Supreme Court of Virginia shall certify to 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 Virginia of the political party having the next highest number of members in the Senate of Virginia a list of at least 10 retired judges of the circuit courts of Virginia who are willing to serve on the Committee and no retired judge who is a parent, spouse, child, sibling, parent-in-law, child-in-law, or sibling-in-law of, or a cohabitating member of a household with, a member of the Congress of the United States or of the General Assembly shall be included in such list. In compiling this list, the Chief Justice shall give consideration to the racial, ethnic, geographic, and gender diversity of the Commonwealth. These members shall each select a judge from the list and shall promptly, but not later than November 20, communicate their selection to the Chief Justice, who shall immediately notify the four judges selected. In making their selections, the members shall give consideration to the racial, ethnic, geographic, and gender diversity of the Commonwealth. Within three days of being notified of their selection, the four judges shall select, by a majority vote, a judge from the list prescribed herein to serve as the fifth member of the Committee, who shall serve as the chairman of the Committee.

A majority of the Committee members, which majority shall include the chairman, shall constitute a quorum.

The judges of the Committee shall serve until their successors are appointed. If a judge cannot, for any reason, complete his term, the remaining judges shall select a replacement from the list prescribed herein.

C. Members of the Committee shall receive compensation for their services and shall be allowed all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. The compensation and expenses of members and all other necessary expenses of the Committee shall be provided from existing appropriations to the Commission.

D. All meetings and records of the Committee shall be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except as provided in subsection E of § 30-379.

E. Notwithstanding the provisions of § 1-210 regarding the computation of time, if an act required by this section is to be performed on a Saturday, Sunday, or legal holiday, or any day or part of a day on which the government office where the act to be performed is closed, the act required shall be performed on the first business day immediately preceding the Saturday, Sunday, or legal holiday, or day on which the government office is closed.

§ 30-379. Citizen commissioners; application process; qualifications; selection.

A. Within three days following the selection of the fifth member of the Committee, the Committee shall adopt an application and process by which residents of the Commonwealth may apply to serve on the Commission as citizen commissioners. The Division of Legislative Services shall assist the Committee in the development of the application and process.

The application for service on the Commission shall require applicants to provide personal contact information and information regarding the applicant's race, ethnicity, gender, age, date of birth, education, and household income. The application shall require an applicant to disclose, for the period of three years immediately preceding the application period, the applicant's (i) voter registration status; (ii) preferred political party affiliation, if any, and any political party primary elections in which he has voted; (iii) history of any partisan public offices or political party offices held or sought; (iv) employment history, including any current or prior employment with the Congress of the United States or one of its members, the General Assembly or one of its members, any political party, or any campaign for a partisan public office, including a volunteer position; and (v) relevant leadership experience or involvements with professional, social, political, volunteer, and community organizations and causes.

The application shall require an applicant to disclose information regarding the partisan activities and employment history of the applicant's parent, spouse, child, sibling, parent-in-law, child-in-law, or

306 sibling-in-law or any person with whom the applicant is a cohabitating member of a household, for the
307 period of three years immediately preceding the application period.

308 The Committee may require applicants to submit three letters of recommendation from individuals or
309 organizations.

310 The application process shall provide for both paper and electronic or online applications. The
311 Committee shall cause to be advertised throughout the Commonwealth information about the
312 Commission and how interested persons may apply.

313 B. To be eligible for service on the Commission, a person shall have been a resident of the
314 Commonwealth and a registered voter in the Commonwealth for three years immediately preceding the
315 application period. He shall have voted in at least two of the previous three general elections. No
316 person shall be eligible for service on the Commission who:

317 1. Holds, has held, or has sought partisan public office or political party office;

318 2. Is employed by or has been employed by a member of the Congress of the United States or of the
319 General Assembly or is employed directly by or has been employed directly by the United States
320 Congress or by the General Assembly;

321 3. Is employed by or has been employed by any federal, state, or local campaign;

322 4. Is employed by or has been employed by any political party or is a member of a political party
323 central committee;

324 5. Is a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or a
325 lobbyist's principal as defined in § 2.2-419 or has been such a lobbyist or lobbyist's principal in the
326 previous five years; or

327 6. Is a parent, spouse, child, sibling, parent-in-law, child-in-law, or sibling-in-law of a person
328 described in subdivisions 1 through 5, or is a cohabitating member of a household with such a person.

329 C. The application period shall begin no later than December 1 of the year ending in zero and shall
330 end four weeks after the beginning date. During this period, interested persons shall submit a completed
331 application and any required documentation to the Division of Legislative Services. All applications
332 shall be reviewed by the Division of Legislative Services to ensure an applicant's eligibility for service
333 pursuant to subsection B, and any applicant who is ineligible for service shall be removed from the
334 applicant pool.

335 The Division of Legislative Services shall make available the application for persons to use when
336 submitting a paper application and shall provide electronic access for electronic submission of
337 applications.

338 D. Within two days of the close of the application period, the Division of Legislative Services shall
339 provide to the Speaker of the House of Delegates, the leader in the House of Delegates of the political
340 party having the next highest number of members in the House of Delegates, the President pro tempore
341 of the Senate of Virginia, and the leader in the Senate of Virginia of the political party having the next
342 highest number of members in the Senate of Virginia the applications and documentation submitted by
343 those applicants who are eligible for service on the Commission pursuant to subsection B and submitted
344 complete applications, including any required documentation.

345 E. By January 1 of the year ending in one, those persons receiving the applications pursuant to
346 subsection D shall each submit to the Committee a list of at least 16 citizen candidates for service on
347 the Commission. In selecting citizen candidates, they shall give consideration to the racial, ethnic,
348 geographic, and gender diversity of the Commonwealth.

349 They shall notify the Division of Legislative Services of the citizen candidates submitted to the
350 Committee for consideration and the Division of Legislative Services shall promptly provide to the
351 Committee the applications and documentation for each citizen candidate being considered. Only the
352 applications and documentation for each citizen candidate shall be maintained as public records.

353 F. Within two weeks of receipt of the lists of citizen candidates and related materials pursuant to
354 subsection E, the Committee shall select, by a majority vote in a public meeting, two citizen members
355 from each list submitted. In making its selections, the Committee shall give consideration to the racial,
356 ethnic, geographic, and gender diversity of the Commonwealth. The Committee shall promptly notify
357 those eight citizens of their selection to serve as a citizen commissioner of the Commission.

358 No member of the Committee shall communicate with a member of the General Assembly or the
359 United States Congress, or any person acting on behalf of a member of the General Assembly or the
360 United States Congress, about any matter related to the selection of citizen commissioners after receipt
361 of the lists submitted pursuant to subsection E.

362 G. Notwithstanding the provisions of § 1-210 regarding the computation of time, if an act required
363 by this section is to be performed on a Saturday, Sunday, or legal holiday, or any day or part of a day
364 on which the government office where the act to be performed is closed, the act required shall be
365 performed on the first business day immediately preceding the Saturday, Sunday, or legal holiday, or
366 day on which the government office is closed.

367 **§ 30-380. Staff to Virginia Redistricting Commission; census liaison.**

A. The Division of Legislative Services shall provide staff support to the Commission. Staff shall perform those duties assigned to it by the Commission. The Director of the Division of Legislative Services, or his designated representative, shall serve as the state liaison with the United States Bureau of the Census on matters relating to the tabulation of the population for reapportionment purposes pursuant to P.L. 94-171. The governing bodies, electoral boards, and registrars of every county and municipality shall cooperate with the Division of Legislative Services in the exchange of all statistical and other information pertinent to preparation for the census.

B. The Division of Legislative Services shall maintain the current election district and precinct boundaries of each county and city as a part of the Commission's computer-assisted mapping and redistricting system. Whenever a county or city governing body adopts an ordinance that changes an election district or precinct boundary, the local governing body shall provide a copy of its ordinance, along with Geographic Information System (GIS) maps and other evidence documenting the boundary, to the Division of Legislative Services.

C. The Division of Legislative Services shall prepare and maintain a written description of the boundaries for the congressional, senatorial, and House of Delegates districts set out in Article 2 (§ 24.2-302 et seq.) of Chapter 3 of Title 24.2. The descriptions shall identify each district boundary, insofar as practicable, by reference to political subdivision boundaries or to physical features such as named roads and streets. The Division of Legislative Services shall furnish to each general registrar the descriptions for the districts dividing his county or city. The provisions of Article 2 of Chapter 3 of Title 24.2, including the statistical reports referred to in Article 2 of Chapter 3 of Title 24.2, shall be controlling in any legal determination of a district boundary.

§ 30-381. Public participation in redistricting process.

A. All meetings and hearings held by the Commission shall be adequately advertised and planned to ensure the public is able to attend and participate fully. Meetings and hearings shall be advertised in multiple languages as practicable and appropriate.

B. Prior to proposing any plan for districts for the United States House of Representatives, the Senate, or the House of Delegates and prior to voting to submit such plans to the General Assembly, the Commission shall hold at least three public hearings in different parts of the Commonwealth in order to receive and consider comments from the public.

C. The Commission shall establish and maintain a website or other equivalent electronic platform. The website shall be available to the general public and shall be used to disseminate information about the Commission's activities. The website shall be capable of receiving comments and proposals by citizens of the Commonwealth. Prior to voting on any proposed plan, the Commission shall publish the proposed plans on the website.

D. All data used by the Commission in the drawing of districts shall be available to the public on its website. Such data, including census data, precinct maps, election results, and shapefiles, shall be posted within three days of receipt by the Commission.

§ 30-382. Standards and criteria for congressional and legislative districts.

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

1. Districts shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district. A deviation of no more than five percent shall be permitted for state legislative districts.

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

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

4. Districts shall be drawn to give racial and language minorities an equal opportunity to participate in the political process and shall not dilute or diminish their ability to elect candidates of choice either alone or in coalition with others.

429 5. Districts shall be drawn to preserve communities of interest. For purposes of this subdivision, a
430 "community of interest" means a neighborhood or any geographically defined group of people living in
431 an area who share similar social, cultural, and economic interests. A "community of interest" does not
432 include a community based upon political affiliation or relationship with a political party, elected
433 official, or candidate for office.

434 6. Districts shall be composed of contiguous territory, with no district contiguous only by
435 connections by water running downstream or upriver, and political boundaries may be considered.

436 7. Districts shall be composed of compact territory and shall be drawn employing one or more
437 standard numerical measures of individual and average district compactness, both statewide and district
438 by district.

439 8. A map of districts shall not, when considered on a statewide basis, unduly favor or disfavor any
440 political party.

441 9. The whole number of persons reported in the most recent federal decennial census by the United
442 States Bureau of the Census shall be the basis for determining district populations, except that no
443 person shall be deemed to have gained or lost a residence by reason of conviction and incarceration in
444 a federal, state, or local correctional facility. Persons incarcerated in a federal, state, or local
445 correctional facility shall be counted in the locality of their address at the time of incarceration, and the
446 Commission, through the Division of Legislative Services, shall adjust the census data pursuant to
447 § 30-383 for this purpose.

448 **§ 30-383. Population data; reallocation of prison populations.**

449 A. Persons incarcerated in federal correctional facilities and in state and local correctional facilities,
450 as those terms are defined in § 53.1-1, shall be counted and reallocated for redistricting and
451 reapportionment purposes in accordance with the provisions of this section and the following:

452 1. A person incarcerated in a federal, state, or local correctional facility whose address at the time
453 of incarceration was located within the Commonwealth shall be deemed to reside at such address.

454 2. A person incarcerated in a federal, state, or local correctional facility whose address at the time
455 of incarceration was located outside of the Commonwealth or whose address at the time of
456 incarceration cannot be determined shall be deemed to reside at the location of the facility in which he
457 is incarcerated.

458 B. By July 1 of any year in which the decennial census is taken, the Department of Corrections and
459 the Board of Corrections shall provide to the Division of Legislative Services, in a format specified by
460 the Division of Legislative Services, the following information for each person who was incarcerated in
461 a state or local correctional facility on April 1 of that year:

462 1. A unique identifier, other than his name or offender identification number, assigned by the
463 Department of Corrections or the Board of Corrections for this purpose;

464 2. His residential street address at the time of incarceration, or other legal residence, if known;

465 3. His race, his ethnicity as identified by him, and whether he is 18 years of age or older; and

466 4. The street address of the correctional facility in which he was incarcerated on April 1 of that
467 year.

468 C. The Division of Legislative Services shall request each agency operating a federal correctional
469 facility in the Commonwealth that incarcerates persons convicted of a criminal offense to provide to the
470 Division of Legislative Services by July 1 of any year in which the decennial census is taken a record
471 containing the information specified in subsection B for each person who was incarcerated in the
472 facility on April 1 of that year. Any person incarcerated in a federal correctional facility for whom a
473 record is not received by the Division of Legislative Services shall be deemed to have an address at the
474 time of incarceration that cannot be determined.

475 D. The Commission, through the Division of Legislative Services, shall prepare adjusted population
476 data, including race and ethnicity data, in a manner that reflects the inclusion of incarcerated persons
477 in the population count of the locality in which he is deemed to reside pursuant to subdivision A 1 or 2.

478 This adjusted population data shall be used for purposes of redistricting and reapportionment and
479 shall be the basis for congressional, state Senate, House of Delegates, and local government election
480 districts. This adjusted population data shall not be used in the distribution of any federal or state aid.

481 E. The Commission shall make the adjusted population data available no later than 30 days
482 following receipt of the census data. In making this data available, the Commission shall ensure no
483 information regarding a specific incarcerated person's address at the time of incarceration is made
484 public.

485 **§ 30-384. Proposal and submission of plans for districts.**

486 A. The Commission shall submit to the General Assembly plans for districts for the Senate and the
487 House of Delegates of the General Assembly no later than 45 days following the receipt of census data.

488 To be submitted as a proposed plan for districts for members of the Senate, a plan shall receive
489 affirmative votes of at least six of the eight legislative commissioners, including at least three of the four
490 legislative commissioners who are members of the Senate, and at least six of the eight citizen

commissioners.

To be submitted as a proposed plan for districts for members of the House of Delegates, a plan shall receive affirmative votes of at least six of the eight legislative commissioners, including at least three of the four legislative commissioners who are members of the House of Delegates, and at least six of the eight citizen commissioners.

B. The Commission shall submit to the General Assembly plans for districts for the United States House of Representatives no later than 60 days following the receipt of census data or by the first day of July of that year, whichever occurs first.

To be submitted as a proposed plan for districts for members of the United States House of Representatives, a plan shall receive affirmative votes of at least six of the eight legislative commissioners and at least six of the eight citizen commissioners.

C. If the Commission fails to submit a plan for districts by the deadline set forth in subsection A or B, the Commission shall have 14 days following its initial failure to submit a plan to the General Assembly. If the Commission fails to submit a plan for districts to the General Assembly by this date, the districts shall be established by the Supreme Court of Virginia pursuant to § 30-386.

§ 30-385. Consideration of plans by the General Assembly; timeline.

A. All plans for districts for the Senate and the House of Delegates shall be embodied in and voted on as a single bill.

B. All bills embodying plans for districts for the United States House of Representatives, the Senate, or the House of Delegates shall be voted on by the General Assembly in accordance with the provisions of Article IV, Section 11 of the Constitution of Virginia, except no amendments shall be permitted. All bills embodying a plan that are approved by both houses shall become law without the signature of the Governor and, pursuant to Article II, Section 6 of the Constitution of Virginia, shall take effect immediately.

C. Within 15 days of receipt of any plan for districts, the General Assembly shall take a vote on a bill embodying such plan. If the General Assembly fails to adopt the bill by this deadline, the Commission shall submit a new plan for districts within 14 days of the General Assembly's failure to adopt the bill. Within seven days of receipt of such plan, the General Assembly shall take a vote on the bill embodying the plan, and if the General Assembly fails to adopt the plan by this deadline, the districts shall be established by the Supreme Court of Virginia pursuant to § 30-386.

D. If the Commission submits a plan for districts pursuant to subsection C of § 30-384, the General Assembly shall take a vote on such plan within seven days of its receipt. If the General Assembly fails to adopt the plan by this deadline, the districts shall be established by the Supreme Court of Virginia pursuant to § 30-386.

§ 30-386. Establishment of districts by the Supreme Court of Virginia.

A. In the event the Commission fails to submit a plan for districts by the deadline set forth in subsection A or B of § 30-384, or the General Assembly fails to adopt a plan for districts by the deadline set forth in subsection C or D of § 30-385, the Supreme Court of Virginia (the Court) shall be responsible for establishing the districts.

B. The Court shall, not later than March 1 of a year ending in one, enact rules and procedures as may be necessary for implementing the requirements of Section 6-A of Article II of the Constitution of Virginia, empowering the Court to establish congressional or state legislative districts as provided for in that section. In enacting such rules and procedures, the Court shall follow the provisions of this section.

C. Public participation in the Court's redistricting deliberations shall be permitted. Such public participation may be through briefings, written submissions, hearings in open court, or any other means as may be prescribed by the Court.

D. The Division of Legislative Services shall make available staff support and technical assistance to the Court to perform those duties as may be requested or assigned to it by the Court.

E. Any plan for congressional or state legislative districts established by the Court shall adhere to the standards and criteria for districts set forth in Article II, Section 6 of the Constitution of Virginia and § 30-382.

F. The Court shall appoint two special masters to assist the Court in the establishment of districts. Within one week of the Commission's failure to submit plans or the General Assembly's failure to adopt plans, the leaders in the House of Delegates having the highest and next highest number of members in the House of Delegates and the leaders in the Senate of Virginia having the highest and next highest number of members in the Senate of Virginia shall each submit to the Court a list of three or more nominees, along with a brief biography and resume for each nominee, including the nominee's particular expertise or experience relevant to redistricting. The Court shall then select, by a majority vote, one special master from the lists submitted by the legislative leaders of the political party having the highest number of members in their respective chambers and one special master from the lists submitted by the legislative leaders of the political party having the next highest number of members in

552 *their respective chambers. The persons appointed to serve as special masters shall have the requisite*
553 *qualifications and experience to serve as a special master and shall have no conflicts of interest. In*
554 *making its appointments, the Court shall consider any relevant redistricting experience in the*
555 *Commonwealth and any practical or academic experience in the field of redistricting. The Court shall*
556 *be reimbursed by the Commonwealth for all costs, including fees and expenses, related to the*
557 *appointment or work of the special master from funds appropriated for this purpose.*

558 *G. Any justice who is a parent, spouse, child, sibling, parent-in-law, child-in-law, or sibling-in-law*
559 *of, or a cohabitating member of a household with, a member of the Congress of the United States or of*
560 *the General Assembly shall recuse himself from any decision made pursuant to this section, and no*
561 *senior justice designated pursuant to § 17.1-302 shall be assigned to the case or matter to serve in his*
562 *place.*

563 **§ 30-387. Remedial redistricting plans.**

564 *If any congressional or state legislative district established pursuant to this chapter or the provisions*
565 *of Article II, Section 6 and Section 6-A of the Constitution of Virginia is declared unlawful or*
566 *unconstitutional, in whole or in part, by order of any state or federal court, the Commission shall be*
567 *convened to determine and propose a redistricting plan to remedy the unlawful or unconstitutional*
568 *district.*

569 **§ 53.1-5.2. Compilation of certain data for redistricting purposes.**

570 *A. The Board shall direct the sheriffs of all local jails and the jail superintendents of all regional*
571 *jails to provide to it, no later than May 1 of any year in which the decennial census is taken,*
572 *information regarding each person incarcerated in a local or regional jail on April 1 of that year. Such*
573 *information shall include, for each person incarcerated, (i) his residential street address at the time of*
574 *incarceration, or other legal residence, if known; (ii) his race, his ethnicity as identified by him, and*
575 *whether he is 18 years of age or older; and (iii) the street address of the correctional facility in which*
576 *he was incarcerated on April 1 of that year. Upon receipt of such information, the Board shall assign to*
577 *each person a unique identifier, other than his name or offender identification number.*

578 *B. Pursuant to § 30-383, the Board shall provide to the Division of Legislative Services, not later*
579 *than July 1 of any year in which the decennial census is taken and in a format specified by the Division*
580 *of Legislative Services, the information specified in subsection A, including the Board-assigned unique*
581 *identifier.*

582 **§ 53.1-10. Powers and duties of Director.**

583 *The Director shall be the chief executive officer of the Department and shall have the following*
584 *duties and powers:*

- 585 1. To supervise and manage the Department and its system of state correctional facilities;
- 586 2. To implement the standards and goals of the Board as formulated for local and community
587 correctional programs and facilities and lock-ups;
- 588 3. To employ such personnel and develop and implement such programs as may be necessary to
589 carry out the provisions of this title, subject to Chapter 29 (§ 2.2-2900 et seq.) of Title 2.2, and within
590 the limits of appropriations made therefor by the General Assembly;
- 591 4. To establish and maintain a general system of schools for persons committed to the institutions
592 and community-based programs for adults as set forth in § 53.1-67.9. Such system shall include, as
593 applicable, elementary, secondary, postsecondary, career and technical education, adult, and special
594 education schools.

595 *a. The Director shall employ a Superintendent who will oversee the operation of educational and*
596 *vocational programs in all institutions and community-based programs for adults as set forth in*
597 *§ 53.1-67.9 operated by the Department. The Department shall be designated as a local education agency*
598 *(LEA) but shall not be eligible to receive state funds appropriated for direct aid to public education.*

599 *b. When the Department employs a teacher licensed by the Board of Education to provide instruction*
600 *in the schools of the correctional centers, the Department of Human Resource Management shall*
601 *establish salary schedules for the teachers which endeavor to be competitive with those in effect for the*
602 *school division in which the correctional center is located.*

603 *c. The Superintendent shall develop a functional literacy program for inmates testing below a*
604 *selected grade level, which shall be at least at the twelfth grade level. The program shall include*
605 *guidelines for implementation and test administration, participation requirements, criteria for satisfactory*
606 *completion, and a strategic plan for encouraging enrollment at an institution of higher education or an*
607 *accredited vocational training program or other accredited continuing education program.*

608 *d. For the purposes of this section, the term "functional literacy" shall mean those educational skills*
609 *necessary to function independently in society, including, but not limited to, reading, writing,*
610 *comprehension, and arithmetic computation.*

611 *e. In evaluating a prisoner's educational needs and abilities pursuant to § 53.1-32.1, the*
612 *Superintendent shall create a system for identifying prisoners with learning disabilities.*

613 *5. a. To make and enter into all contracts and agreements necessary or incidental to the performance*

of the Department's duties and the execution of its powers under this title, including, but not limited to, contracts with the United States, other states, and agencies and governmental subdivisions of this Commonwealth, and contracts with corporations, partnerships, or individuals which include, but are not limited to, the purchase of water or wastewater treatment services or both as necessary for the expansion or construction of correctional facilities, consistent with applicable standards and goals of the Board;

b. Notwithstanding the Director's discretion to make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, upon determining that it shall be desirable to contract with a public or private entity for the provision of community-based residential services pursuant to Chapter 5 (§ 53.1-177 et seq.), the Director shall notify the local governing body of the jurisdiction in which the facility is to be located of the proposal and of the facility's proposed location and provide notice, where requested, to the chief law-enforcement officer for such locality when an offender is placed in the facility at issue;

c. Notwithstanding the Director's discretion to make and enter into all contracts and agreements necessary or incidental to the performance of the Department's duties and the execution of its powers under this title, upon determining that it is necessary to transport Virginia prisoners through or to another state and for other states to transport their prisoners within the Commonwealth, the Director may execute reciprocal agreements with other states' corrections agencies governing such transports that shall include provisions allowing each state to retain authority over its prisoners while in the other state.

6. To accept, hold and enjoy gifts, donations and bequests on behalf of the Department from the United States government and agencies and instrumentalities thereof, and any other source, subject to the approval of the Governor. To these ends, the Director shall have the power to comply with such conditions and execute such agreements as may be necessary, convenient or desirable, consistent with applicable standards and goals of the Board;

7. To collect data pertaining to the demographic characteristics of adults, and juveniles who are adjudicated as adults, incarcerated in state correctional institutions, including, but not limited to, the race or ethnicity, age, and gender of such persons, whether they are a member of a criminal gang, and the types of and extent to which health-related problems are prevalent among such persons. Beginning July 1, 1997, such data shall be collected, tabulated quarterly, and reported by the Director to the Governor and the General Assembly at each regular session of the General Assembly thereafter. The report shall be submitted as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports;

8. To make application to the appropriate state and federal entities so as to provide any prisoner who is committed to the custody of the state a Department of Motor Vehicles approved identification card that would expire 90 days from issuance, a copy of his birth certificate if such person was born in the Commonwealth, and a social security card from the Social Security Administration;

9. To forward to the Commonwealth's Attorneys' Services Council, updated on a monthly basis, a list of all identified criminal gang members incarcerated in state correctional institutions. The list shall contain identifying information for each criminal gang member, as well as his criminal record;

10. To give notice, to the attorney for the Commonwealth prosecuting a defendant for an offense that occurred in a state correctional facility, of that defendant's known gang membership. The notice shall contain identifying information for each criminal gang member as well as his criminal record;

11. To designate employees of the Department with internal investigations authority to have the same power as a sheriff or a law-enforcement officer in the investigation of allegations of criminal behavior affecting the operations of the Department. Such employees shall be subject to any minimum training standards established by the Department of Criminal Justice Services under § 9.1-102 for law-enforcement officers prior to exercising any law-enforcement power granted under this subdivision. Nothing in this section shall be construed to grant the Department any authority over the operation and security of local jails not specified in any other provision of law. The Department shall investigate allegations of criminal behavior in accordance with a written agreement entered into with the Department of State Police. The Department shall not investigate any action falling within the authority vested in the Office of the State Inspector General pursuant to Chapter 3.2 (§ 2.2-307 et seq.) of Title 2.2 unless specifically authorized by the Office of the State Inspector General;

12. To enforce and direct the Department to enforce regulatory policies promulgated by the Board prohibiting the possession of obscene materials, as defined in Article 5 (§ 18.2-372 et seq.) of Chapter 8 of Title 18.2, by prisoners incarcerated in state correctional facilities; ~~and~~

13. To develop and administer a survey of each correctional officer, as defined in § 53.1-1, who resigns, is terminated, or is transitioned to a position other than correctional officer for the purpose of evaluating employment conditions and factors that contribute to or impede the retention of correctional officers; ~~and~~

14. To provide, pursuant to § 30-383, to the Division of Legislative Services, not later than July 1 of any year in which the decennial census is taken and in a format specified by the Division of Legislative

675 *Services, information regarding each person incarcerated in a state correctional facility on April 1 of*
676 *that year. Such information shall include, for each person incarcerated, (i) a unique identifier, other*
677 *than his name or offender identification number, assigned by the Director; (ii) his residential street*
678 *address at the time of incarceration, or other legal residence, if known; (iii) his race, his ethnicity as*
679 *identified by him, and whether he is 18 years of age or older; and (iv) the street address of the*
680 *correctional facility in which he was incarcerated on April 1 of that year.*

681 **2. That the provisions of this act shall become effective on November 15, 2020, contingent upon**
682 **the passage of an amendment to the Constitution of Virginia on the Tuesday after the first**
683 **Monday in November 2020, establishing the Virginia Redistricting Commission by amending**
684 **Section 6 of Article II and adding in Article II a new section numbered 6-A.**

685 **3. That the House and Senate Committees on Privileges and Elections shall hold a series of public**
686 **hearings in different regions of the Commonwealth to gather information and receive public**
687 **comment on the 2021 decennial redistricting process. These public hearings shall be conducted**
688 **prior to December 1, 2020, and the information gathered and public comment received shall be**
689 **provided to the chairman of the Virginia Redistricting Commission. The Commission shall, in**
690 **drawing district plans to be submitted to the General Assembly, take into consideration the**
691 **information and public comment gathered by the Committees.**