



IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

DAWN CURRY PAGE, an individual;
GLORIA PERSONHUBALLAH, an
individual; JAMES FARKAS, an individual,

Plaintiffs,

v.

VIRGINIA STATE BOARD OF ELECTIONS;
CHARLIE JUDD, in his capacity as Chairman
of the Virginia State Board of Elections;
KIMBERLY BOWERS, in her capacity as
Vice-Chair of the Virginia State Board of
Elections; DON PALMER, in his capacity as
Secretary of the Virginia State Board of
Elections; KENNETH CUCCINELLI II, in his
capacity as Attorney General of Virginia,

Defendants.

Civil Action No. 3:13 cv 678

Three-Judge Court Requested

COMPLAINT

1. Plaintiffs bring this action to challenge the constitutionality of Virginia's Congressional District 3 as a racial gerrymander in violation of the Equal Protection Clause of the Fourteenth Amendment.

2. Until recently, Virginia was deemed a covered jurisdiction under the Voting Rights Act of 1965. Accordingly, its congressional maps were subject to preclearance by the federal government.

3. In the name of avoiding retrogression, Virginia has used Section 5 as a justification to racially gerrymander congressional districts, specifically by packing African-

American voters into Congressional District 3 and thereby diminishing their influence in surrounding districts.

4. On June 25, 2013, in *Shelby County v. Holder*, 570 U.S. ____, 2013 WL 3184629 (U.S. June 25, 2013), the United States Supreme Court held that the coverage formula provided in Section 4(b) of the Voting Rights Act is unconstitutional. As a result, Virginia is no longer a covered jurisdiction for purposes of Section 5.

5. Virginia can no longer seek refuge in Section 5 as an excuse to racially gerrymander Congressional District 3. Drawn with race as its predominant purpose, this district cannot pass constitutional muster.

6. Plaintiffs seek a declaration that Virginia's Congressional District 3 is invalid and an injunction prohibiting the Defendants from calling, holding, supervising, or taking any action with respect to Congressional elections based on Congressional District 3 as it currently stands.

PARTIES

7. Plaintiff Dawn Curry Page is a United States citizen and registered voter in the Commonwealth of Virginia. She currently resides in Congressional District 3.

8. Plaintiff Gloria Personhuballah is a United States citizen and registered voter in the Commonwealth of Virginia. She currently resides in Congressional District 3.

9. Plaintiff James Farkas is a United States citizen and registered voter in the Commonwealth of Virginia. He currently resides in Congressional District 3.

10. Defendant Virginia State Board of Elections is responsible for administering Virginia election laws, supervising and coordinating the work of local election officials to ensure legality and purity in all elections, and issuing rules and regulations for the conduct

of all elections in the Commonwealth, including elections for the United States House of Representatives.

11. Defendants Charlie Judd, Kimberly Bowers, and Don Palmer are sued in their respective official capacities as Chairman, Vice-Chair, and Secretary of the Virginia State Board of Elections.

12. Defendant Kenneth T. Cuccinelli, II is sued in his official capacity as Attorney General of Virginia. Defendant Cuccinelli is the chief legal officer of the Commonwealth of Virginia.

JURISDICTION AND VENUE

13. This Court has jurisdiction to hear Plaintiffs' claim pursuant to 42 U.S.C. §§ 1983 and 1988, and 28 U.S.C. §§ 1331, 1343(a)(3), and 1357. This Court has jurisdiction to grant declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.

14. A three-judge district court is requested pursuant to 28 U.S.C. § 2284(a), as Plaintiffs' action "challeng[es] the constitutionality of the apportionment of congressional districts" in Virginia.

15. Venue is proper under 28 U.S.C. § 1391(b).

FACTUAL ALLEGATIONS

16. On January 20, 2012, the Virginia General Assembly passed Virginia's eleven Congressional districts, set forth at Va. Code Ann. § 24.2-302.2 [hereinafter "2012 Congressional Plan"].

17. Virginia received the 2010 decennial census redistricting data from the Census Bureau on February 3, 2011, during the General Assembly's regular 2011 session. The session expired on February 27, 2011, before the General Assembly had adopted a new

congressional district plan. That day, the Governor of Virginia called for a special session to address redistricting.

18. During the special session, the Senate Committee on Privileges and Elections established various guidelines to govern the congressional redistricting process.

19. Those guidelines provided, *inter alia*, that “[d]istricts shall be drawn in accordance with the laws of the United States and the Commonwealth of Virginia including compliance with protections against the unwarranted retrogression or dilution of racial or ethnic minority voting strength.”

20. The guidelines further provided that “population equality among districts and compliance with federal and state constitutional requirements and the Voting Rights Act of 1965 shall be given priority in the event of conflict among the [redistricting] criteria.”

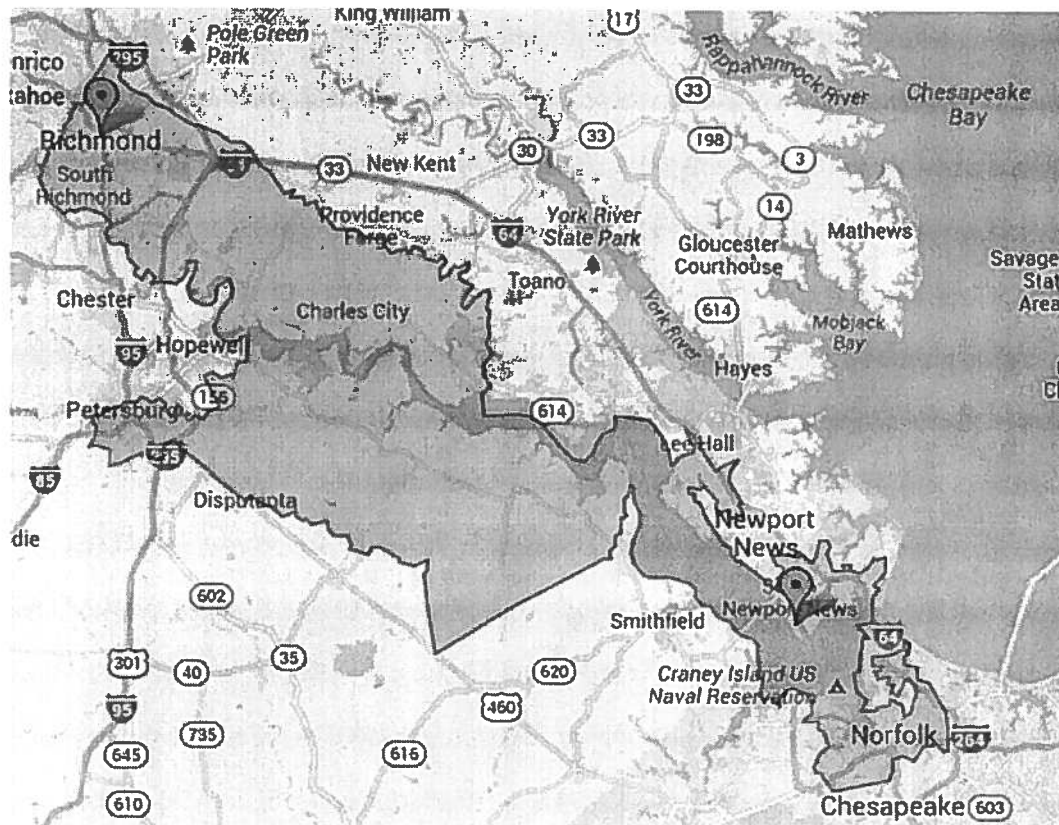
21. The Virginia General Assembly failed to adopt a new congressional redistricting plan in the General Assembly’s 2011 Special Session.

22. On November 8, 2011, Virginia held elections for its General Assembly. Republicans maintained their majority in the Virginia House of Delegates. Democrats lost their majority in the Virginia Senate when 20 Democrats and 20 Republicans were elected. Virginia’s Republican Lieutenant Governor Bill Bolling would provide an additional vote in the event of a tie.

23. On January 12, 2012--one day after the General Assembly’s 2012 Session began--the Virginia House of Delegates passed HB 251, which proposed new congressional districts for Virginia. The General Assembly had originally considered the redistricting plan in HB 251 during the 2011 Special Session, but the Virginia Senate’s Democratic majority at the time would not approve it. On January 20, 2012, the Virginia Senate approved HB 251 by a one-vote margin.

24. Virginia Governor Bob McDonnell signed HB 251 into law on January 25, 2012.

25. HB 251 was codified as Va. Code Ann. § 24.2-302.2, which defines the 2012 Congressional Plan, including Congressional District 3.



26. Congressional District 3 is located in southeastern Virginia. It includes portions of Richmond, Petersburg, Newport News, and Norfolk. It is not contiguous, with parts of the district disconnected by the James River and Chesapeake Bay.

27. A similar version of Congressional District 3 has existed since 1991, when the Virginia General Assembly adopted new congressional districts in light of the 1990 census.

28. In 1997, a three-judge panel concluded that the version of Congressional District 3 drawn in 1991 was the result of unconstitutional racial gerrymandering. *See Moon v. Meadows*, 952 F. Supp. 1141, 1150 (E.D. Va. 1997), *aff'd*, 521 U.S. 1113 (1997).

29. On July 10, 2001, the Virginia General Assembly enacted a new congressional plan based on the 2000 census. Under the congressional redistricting plan adopted in 2001, Congressional District 3 was similar to its unconstitutional predecessor.

30. The current Congressional District 3 contains only slight variations from Congressional District 3 drawn in 1991 and 2001 and found to be an unconstitutional gerrymander in 1997.

31. At the time of the 2010 census, the 2001 version of Congressional District 3 had an African-American voting age population of 53.1%. In the 2012 Congressional Plan, the African-American voting age population in Congressional District 3 was increased to 56.3%.

32. The Virginia General Assembly increased the African-American population of Congressional District 3 by moving the African-American population from neighboring districts into Congressional District 3. Congressional District 3 is surrounded by Congressional Districts 1, 2, 4, and 7. At the time of the 2010 census, former Congressional District 1 had an African-American voting age population of 19.6%. In the 2012 Congressional Plan, the African-American voting age population decreased to 16.9%. Former Congressional District 2 had an African-American voting age population of 21.4%, which decreased to 21.3% under the current plan. Similarly, the African-American voting age population in Congressional District 4 decreased from 33.5% to 31.3%, and the African-American voting age population in Congressional District 7 decreased from 17% to 14.6%. The fact that the African-American population in each of these districts decreased while the

African-American population in Congressional District 3 increased is evidence that the 2012 Congressional Plan's packing of African-American voters in Congressional District 3 was a decision driven primarily by race.

33. Congressional District 3 is not compact. Congressional District 3 also disregards key political subdivisions and geographical boundaries and subordinates other traditional districting principles.

34. Congressional District 3 is bizarre on its face. The northwest corner of the district includes parts of Richmond and the north shore of the James River. It then crosses the James River for the first time and juts west to capture parts of Petersburg. The district again crosses to the north shore of the James River to include part of Newport News, though this portion of the district is not contiguous with any other part of the district. The district then hops over part of Congressional District 2 to include part of Hampton and crosses the James River and Chesapeake Bay to capture part of Norfolk, which is not contiguous with any other part of Congressional District 3.

35. As of the date of the enactment of the 2012 Congressional Plan, Virginia was considered a covered jurisdiction under Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c. Accordingly, the 2012 Congressional Plan was subject to preclearance by either the United States Department of Justice or the United States District Court for the District of Columbia before it could take effect.

36. On February 2, 2012, the Commonwealth of Virginia submitted its submission under Section 5 to the United States Department of Justice. Excerpts of those documents are attached as Exhibit A.

37. In its Statement of Anticipated Minority Impact, the Commonwealth asserted that the 2012 Congressional Plan "complies with the requirements of Section 5 of the United

States Voting Rights Act by retaining minority strength in the redrawn Third District comparable to the minority strength of the [previous] Third District under the 2010 Census.” Ex. A at 27.

38. In its Section 5 submission, the Commonwealth further explained that the City of Petersburg, as well as additional population from the Cities of Hampton, Norfolk, and Richmond and the County of Henrico were shifted into Congressional District 3 “so as to meet equal population requirements and the non-retrogression requirements of Section 5.”

39. On June 25, 2013, the United States Supreme Court issued its opinion in *Shelby County v. Holder*, 570 U.S. ____, 2013 WL 3184629 (U.S. June 25, 2013), holding that the coverage formula provided in Section 4(b) of the Voting Rights Act is unconstitutional. As a result, the Commonwealth of Virginia is no longer a covered jurisdiction and need not meet preclearance requirements under Section 5.

40. Upon information and belief, Section 5 preclearance requirements were used as a justification to pack African-American voters into the bizarrely-shaped Congressional District 3.

41. Race was the predominant consideration in the creation of Congressional District 3. No other factor explains the tortured shape of this district, its failure to comply with traditional districting principles, or the high concentration of African-American voters in the district.

42. The predominant consideration of race with respect to Congressional District 3 is not justified by a compelling state interest.

43. In particular, in the wake of *Shelby County*, Section 5 cannot justify the use of race as a predominant factor in drawing congressional district lines.

44. Nor can Section 2 of the Voting Rights Act justify the use of race as a predominant factor in drawing Congressional District 3. African-American voters in this district are able to elect candidates of their choice without constituting 56.3% of the District's voting age population.

45. Even if there were a compelling state interest to create and maintain Congressional District 3 with race as the predominant factor, Congressional District 3 is not narrowly tailored to achieve that interest. There are other viable and constitutionally permissible alternatives to Congressional District 3.

CAUSE OF ACTION

Violation of the Equal Protection Clause of the United States Constitution

46. Plaintiffs reallege and incorporate by reference, as if fully set forth herein, the allegations in paragraphs 1-45 above.

47. The Fourteenth Amendment of Section 1 of the United States Constitution provides in relevant part: "No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

48. Race was the predominant factor in the creation of Congressional District 3.

49. The use of race as the predominant factor with respect to Congressional District 3 is not narrowly tailored to serve a compelling state interest.

50. Accordingly, Congressional District 3 violates the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution.

51. Plaintiffs have no adequate remedy at law other than the judicial relief sought here. The failure to temporarily and permanently enjoin the conduct of elections based on

Congressional District 3 will irreparably harm Plaintiffs by violating their constitutional rights.

PRAYER FOR RELIEF


WHEREFORE, Plaintiffs request that this Court:

- A. Convene a court of three judges pursuant to 28 U.S.C. § 2284(a);
- B. Declare that Congressional District 3 under the 2012 Congressional Plan is a racial gerrymander in violation of the Equal Protection Clause of the Fourteenth Amendment;
- C. Issue a permanent injunction enjoining Defendants from enforcing or giving any effect to the boundaries of Congressional District 3 as drawn in the 2012 Congressional Plan, including an injunction barring Defendants from conducting any elections for the United States House of Representatives based on Congressional District 3;
- D. Hold hearings, consider briefing and evidence, and otherwise take actions necessary to determine and order a valid plan for new congressional districts in the Commonwealth of Virginia; and
- E. Grant such other or further relief the Court deems to be appropriate, including but not limited to an award of Plaintiffs' attorneys' fees and reasonable costs.

Dated: October 2, 2013

Respectfully submitted,

By


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EXHIBIT A

SUBMISSION UNDER § 5 OF THE VOTING RIGHTS ACT:
2012 VA. ACTS CH. 1
REDISTRICTING VIRGINIA’S U.S. CONGRESSIONAL SEATS

DATE: February 1, 2012

SUMMARY: This summary outlines the information provided in this submission pursuant to 28 C.F.R. §§ 51.27 and 51.28. The summary either provides the information requested or references the appropriate attachment.

- Section 51.27 (a) Attested copy of Ch. 1, 2012 Va. Acts (**Attachment 1**).
- (b) Copy of current Va. Code § 24.2-302.1 (**Attachment 2**).
- (c) Statement of the change. **Attachment 3** provides a detailed explanation of Chapter 1 redistricting Virginia’s U.S. Congressional districts.
- (d) E. Duncan Getchell, Jr.
Solicitor General
Office of the Attorney General
900 East Main Street
Richmond, Virginia 23219
804-786-7140
- (e) Commonwealth of Virginia
- (f) Not applicable
- (g) Act of the Virginia General Assembly
- (h) Va. Const. art. II § 6 (1971) requires the General Assembly to reapportion the Commonwealth into electoral districts every ten years, beginning in 1971:

“Section 6. Apportionment.

“Members of the House of Representatives of the United States and members of the Senate and of the House of Delegates of the General Assembly shall be elected from electoral districts established by the General Assembly. Every electoral district 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. The General Assembly shall reapportion the Commonwealth into electoral districts in accordance with this section in the year 2011 and every ten years thereafter.

“Any such decennial reapportionment law shall take effect immediately and not be subject to the limitations contained in Article IV, Section 13, of this Constitution.

“The districts delineated in the decennial reapportionment law shall be implemented for the November general election for the United States House of

Representatives, Senate, or House of Delegates, respectively, that is held immediately prior to the expiration of the term being served in the year that the reapportionment law is required to be enacted. A member in office at the time that a decennial redistricting law is enacted shall complete his term of office and shall continue to represent the district from which he was elected for the duration of such term of office so long as he does not move his residence from the district from which he was elected. Any vacancy occurring during such term shall be filled from the same district that elected the member whose vacancy is being filled.”

Pursuant to Va. Const. art. IV § 11 and art. V § 6, redistricting is accomplished by a general law adopted by a majority vote of the Virginia House of Delegates and Senate of Virginia and approved by the governor. To guide the legislative deliberations, on March 25, 2011, the Senate Committee on Privileges adopted Committee Resolution 2, establishing goals and criteria concerning applicable legal requirements and policy objectives for redrawing of Congressional districts. **Attachment 4.**

- (i) Chapter 1, 2012 Va. Acts was adopted by the General Assembly on January 20, 2012, presented to the governor on January 23, 2012, and thereafter signed by the governor.
- (j) Pursuant to Va. Const. art. II § 6 (1971), 2012 Va. Acts ch. 1 became effective, once enrolled, on January 25, 2012.
- (k) Chapter 1 has not yet been enforced or administered.
- (l) Chapter 1 affects all of Virginia’s Congressional districts.
- (m) A statement of the reasons for the change is included in Attachment 3. *See also* item (h) above.
- (n) A detailed statement of anticipated effect on members of racial minority groups is provided in **Attachment 5.**
- (o) Statement identifying past or pending litigation concerning the change or related voting practices. **Attachment 6.**
- (p) Virginia Code § 24.2-302.1, containing Virginia’s current Congressional districts, was last amended on August 17, 2001, and was last precleared on October 16, 2001.

As discussed in item (h) above, 2012 Va. Acts ch. 1, redistricting Virginia’s Congressional districts, was adopted pursuant to the procedure provided in Va. Const. art. II § 6, art. IV § 11, and art. V § 6. Article II § 6 was precleared on July 6, 2004. Article IV § 11 was precleared on July 11, 1980. Article V § 6 was precleared on August 23, 1994.

- (q) See items referenced under § 51.28
- (r) See items referenced under § 51.28

Section (a) Demographic information
51.28

- (1) Total and voting age population for each district under present Va. Code § 24.2-302.1 and under Chapter 1 by race are provided in **Attachment 7** which includes demographic reports. Total and voting age population for the statewide alternative plans (referred to as HB 5004, SB 5003, and SB 5004 in the 2011 Special Session) are included in **Attachment 7**.

Total and voting age population for each district under present Va. Code § 24.2-302.1, which includes demographic reports, and total and voting age population for the alternative plans are included in **Attachment 7**.

A "Block assignment" file and a "2010 Precincts" file in two formats are included on CD in **Attachment 7**.

Total and voting age population for current and new Congressional districts and the block assignment file may also be accessed over the Internet on the Division of Legislative Services website at: <http://redistricting.dls.virginia.gov/>.

- (2) Information on the number of registered voters by race or language group is not available in Virginia. The number of registered voters by precinct as of November 2010 is provided in **Attachment 7**.

Attachment 8 is a chart identifying names of Minority candidates for Congress for the years 2001-2010. This chart is anecdotal information collected by the Office of the Attorney General.

- (3) Official 2010 population information, including precinct and block data and racial and language population data, was received from the U.S. Bureau of Census on February 3, 2011, and is included in **Attachment 7**. The official U.S. Census data immediately became part of the public records available to individuals and groups participating in the redistricting process. This information was the sole information used in connection with the adoption of the change. **Attachment 9** is the Census 2010 Population Count Explanation.

(b) Maps

- (1) Maps showing current and new district boundaries are contained in **Attachment 10**. This information was provided by the Virginia Division of Legislative Services. Maps showing current and new Congressional districts may also be accessed over the Internet on the Division of Legislative Services website at: <http://redistricting.dls.virginia.gov/>. Maps of alternative plans are included in **Attachment 10**.
- (2) Not applicable. Chapter 1 does not change voting precincts. Changes in voting precincts are the responsibility of local governments.
- (3) The locations of concentrations of the racial minority groups by total and voting age population by precinct are shown in **Attachment 10**. This information was provided by the Virginia Division of Legislative Services.

- (4) Topographical maps of the Commonwealth of Virginia and of the Congressional Districts showing any natural boundaries or geographical features that influenced the selection of boundaries of the prior or new units are shown in **Attachment 10** and were provided by the Division of Legislative Services. The 2010-2012 Official State Transportation Map provided by the Virginia Department of Transportation is in **Attachment 10**.
- (5) & (6) Not applicable. Chapter 1 does not change polling places or voter registration sites. Such changes are the responsibility of local government.
- (c) Not applicable
- (d) Election return data relating to Congressional elections for the years 2002-2010 are provided in **Attachment 11**. Election return data may also be accessed over the Internet on the State Board of Elections website at:
http://www.sbe.virginia.gov/cms/Election_Information/Election_Results/Index.html
- (e) Not applicable.
- (f) Publicity and participation.
- (1) The 2011-12 Virginia legislative redistricting process received extensive statewide media coverage. **Attachment 12** provides a sampling of representative newspaper articles beginning September 7, 2010.
- (2) Notices of Public Hearings were mailed to the media through the Commonwealth. Notices of Committee meeting and floor sessions were provided to the General Assembly and to the public through the meeting notice listings on the websites of the General Assembly and Legislative Information Systems, and through the official calendars of the House of Delegates and Senate of Virginia. A publication of the Virginia Division of Legislative Services, *Drawing the Line 2011, Redistricting in Virginia*, was mailed to the members of the General Assembly and public. Copies of the notices and *Drawing the Line 2011* are provided in **Attachment 13**.
Information regarding redistricting was also provided on the Virginia Division of Legislative Services website at
<http://redistricting.dls.virginia.gov/>.
A summary of the dates upon which proposed Congressional redistricting plans were added to the website is provided in **Attachment 14**.
- (3) Summaries of the extensive public hearings on redistricting for the Virginia Congressional seats are provided in **Attachment 15**. True copies of the full transcripts, together with statements filed at the hearings, are included in **Attachment 15**. The transcripts are also accessible on the Virginia Division of Legislative Services website at:
<http://redistricting.dls.virginia.gov/>.
- (4) Statements, speeches and other public communications submitted in

connection with the adoption of Chapter 1 are provided in **Attachment 16**. Included are reports of comments made by the public to the Congressional plans that were online.

(5) **Attachments 15 and 16** include comments from the general public.

(6) **Attachment 17** provides a summary of the legislative history of Chapter 1 along with recorded votes in committee and on the floor. DVD recordings of the floor debates in the Senate of Virginia and House of Delegates on Congressional Redistricting Plans are included, along with summaries of the floor debates.

Included is the legislative history of statewide alternate plans HB 5004, SB 5003, and SB 5004 from the 2011 Special Session, and SB 455 from the 2012 Session.

Also included are transcripts of the Senate Privileges and Elections Committee meetings, House Privileges and Elections Committee meetings, and summaries of the meetings. The transcripts are also accessible on the Virginia Division of Legislative Services website at

<http://redistricting.dls.virginia.gov/>.

(g) Availability of the submission

(1) **Attachment 18** provides a copy of the press release announcing the submission to the United States Attorney General, informing the public of the availability of a complete duplicate copy of the submission for public inspection and inviting comments for the consideration of the Attorney General. Notice was sent to all news media and should appear in major newspapers statewide.

(2) The portions of **Attachment 17** on DVD are available to the public for copying.

(h) Minority group contacts. The following individuals are familiar with the proposed change and were active in the political process

Members of the House of Delegates Privileges and Elections Committees in 2011 and 2012:

The Honorable Kenneth C. Alexander
General Assembly Building, Room 412
Capitol Square
Richmond, Virginia 23219
804-698-1089
email DelKAlexander@house.virginia.gov

The Honorable Algie T. Howell, Jr.
General Assembly Building, Room 512
Capitol Square
Richmond, Virginia 23219
804-698-1090

email DelAHowell@house.virginia.gov

The Honorable Rosalyn R. Dance
General Assembly Building, Room 813
Capitol Square
Richmond, Virginia 23219
804-698-1063

email DelRDance@house.virginia.gov

The Honorable Lionell Spruill, Sr.
General Assembly Building, Room 702
Capitol Square
Richmond, Virginia 23219
804-698-1077

email DelLSpruill@house.virginia.gov

Member of the Senate Privileges and Elections Committees in 2011 and 2012:

The Honorable A. Donald McEachin
General Assembly Building, Room 318
Capitol Square
Richmond, Virginia 23219
804-698-7509

email district09@senate.virginia.gov

The Commonwealth maintains a list of all who request notice of meetings related to redistricting. However, that list does not include racial identification information. More the less, a number of individuals representing groups or themselves spoke at the public hearings noted in Attachments 15 and 17.

STATEMENT OF CHANGE

Chapter 1 of the Acts of Assembly of 2012 (hereafter Chapter 1) revises Virginia's 11 congressional districts. Virginia's population grew at a rate of 13 percent, from 7,079,030 to 8,001,024, between 2000 and 2010. The pattern of growth was uneven across the Commonwealth, as illustrated in the attached map (Exhibit A) showing percent change in population by locality between 2000 and 2010.

Chapter 1 accommodates these population shifts and takes into account the variety of criteria and factors that traditionally shape the legislature's redistricting decisions. Each congressional district was altered both to bring the district itself into conformity with population criteria and to facilitate necessary changes in adjoining districts.

POPULATION CHANGE BY REGION

Virginia's population increase of 921,994 was concentrated in the outer suburban and exurban rings of Northern Virginia and, secondarily, along the Interstate 64 corridor running from the suburban Hampton Peninsula to the Charlottesville area. These areas account for an increase of 741,158, or 80 percent, of the overall state growth.

The largest increases in population are found in the suburban arc around the older Northern Virginia metropolitan core. Loudoun, Prince William, and Stafford Counties, along with the smaller Cities of Manassas and Manassas Park surrounded by Prince William, experienced an overall 52 percent growth rate. The increase of 307,085 accounts for one-third of the state's total population

growth. The older core of the Northern Virginia region (Arlington County, City of Alexandria, and Fairfax County and the small Cities of Fairfax and Falls Church that it surrounds) continued to gain population (144,866), but its rate of growth, 11 percent, lagged slightly behind the state's overall growth rate.

As population continued to push out from the Northern Virginia core, the next adjoining set of "exurban" localities likewise experienced heavy growth. An overall growth rate of almost 30 percent (28.8 percent) increased the state's population by 103,401 in, from north to south, Frederick, Clarke, Fauquier, Culpeper, Orange, Spotsylvania, Caroline, and King George Counties and including the Cities of Fredericksburg and Winchester.

The corridor along Interstate 64 from the North Hampton Roads suburbs to Charlottesville, skirting the Richmond metropolitan core, with a 21.1 percent overall growth rate, likewise added 84,838 to the state's total growth. (This corridor includes, from east to west, York, James City, New Kent, Hanover, Goochland, Louisa, Fluvanna, and Albemarle Counties and the Cities of Charlottesville and Williamsburg.) One additional area of growth to be noted consists of the two large counties encircling the City of Richmond. Chesterfield and Henrico Counties combined to add 100,968 in population, a growth rate of 19.3 percent.

The situation for the major cities of Hampton Roads is in contrast with the growth of the Northern Virginia and Richmond metropolitan regions. Chesapeake, Norfolk, Portsmouth, and Virginia Beach in South Hampton Roads and Hampton and Newport News in North Hampton Roads combined for a

growth rate of only 2.3 percent. Portsmouth and Hampton actually lost population over the last decade. Above average growth in the adjoining suburban jurisdictions (James City and York Counties and the City of Williamsburg in the North and the City of Suffolk and Isle of Wight County in the South) could not offset the overall lag for the entire metropolitan region.

As can be seen on the Exhibit A map, most rural localities and smaller metropolitan areas in the rest of the state grew at rates below the state average, or in some instances actually lost population, over the last decade. The populations of most of the state's 39 cities increased between 2000 and 2010, but only seven experienced growth exceeding the state average. In addition to the smaller cities cited above in the high growth areas, Harrisonburg and Lynchburg had moderately higher growth and the suburban Hampton Roads City of Suffolk grew at a rate of 32.8 percent.

IMPACT OF POPULATION SHIFTS ON DISTRICTS

The ideal population for a congressional district based on the 2010 Census is 727,366. The range of deviations from the ideal for the current, pre-Chapter 1 districts was extensive – from a plus 19.5 percent deviation (Tenth District) to a minus 11.2 percent deviation (Second District). No district is within one percent of ideal, and deviations in seven of the 11 districts exceed five percent. Adjustments were made to each district to eliminate the disparities in populations between the districts. A review of major regions of the Commonwealth illustrates the impact of the 2010 Census population shifts.

Northern Virginia

As used here, Northern Virginia consists of an older central core and suburban and exurban rings. Arlington County, the City of Alexandria, and Fairfax County and the Cities of Fairfax and Falls Church are the oldest, "central" part of the greater Northern Virginia region. The components of the rapidly growing grouping of suburban and exurban localities have been listed above (see page 2.) Northern Virginia is home to three congressional districts (Eighth, Tenth, and Eleventh), and the outer suburban-exurban localities also add population to districts that stretch south and southeast to Hampton Roads (First) and the Richmond (Seventh) area.

The current Eighth, Tenth, and Eleventh Districts are, in round numbers, collectively 180,000 over the total population for three districts. Chapter 1 first equalizes population among the three districts and then moves this excess population "downstate" to underpopulated districts centered in the Hampton Roads area and in rural western and southern Virginia. The current Eighth District, primarily an inside-the-Beltway district, was 26,356 below the ideal population in 2010. Population exchanges in Fairfax County, primarily with the current Eleventh District, add the population to bring the Eighth to the ideal number in Chapter 1.

Chapter 1 moves the largest part of the excess 180,000 directly from Prince William into the First District. The Prince William component of the First District increases from 55,000 to 167,000, a net shift of 112,000 population. Most of this population is destined for the Second-Third-Fourth District area

through Hampton and Newport News, primarily to make up the Second District's population deficit.

Chapter 1 completes the downstate transfer of population in the northwest part of Northern Virginia. Warren County moves to the Sixth District and the northwest part of Fauquier County moves to the Fifth District, for a total transfer of 68,000.

Hampton Roads

The urban southeastern corner of the state is the second largest of its metropolitan regions. It includes the South Hampton Roads Cities of Chesapeake, Norfolk, Portsmouth, Suffolk, and Virginia Beach and North Hampton Roads Cities of Hampton and Newport News, bordered by several less populous counties and small cities. As noted above, this area for the second straight decade lagged dramatically behind the state's overall growth rate.

The current Second District almost exclusively is contained in this region and is the most underpopulated of the state's districts at 81,182 below the ideal size. Almost 60 percent of the Third District also is in this area. This district, the Virginia district that has an African American majority, is 63,976 below the required population. Hampton Roads also has a share of two additional districts. Almost one-half (45 percent) of the population in the Fourth District is in Hampton Roads. This district stretches west into Southside Virginia and includes African Americans as 34 percent of its population. Its 2010 population was slightly (11,273) above ideal. Finally, the First District stretches from the Northern Virginia suburban area southeast through the rural peninsulas and into North

Hampton Roads, where it picks up approximately a third of the district's population. The First covers areas of above average growth and is 58,871 over the required population. Since Chapter 1 also moves almost 112,000 from the Northern Virginia area into the First District, that district has a significant excess population to be redistributed.

Chapter 1 uses population from the First District in the Newport News-Hampton area to make up the Second District's population deficit. In round numbers, 88,000 in Newport News is shifted from the First to the Second District. Some population is exchanged between First, Second, and Third Districts to add population to the Third District, but Chapter 1 finds most of the population required to erase the Third District deficit at the western end of the district. About 35,000 in Richmond and Henrico County transfer from the Seventh District, and the City of Petersburg (39,000) moves from the Fourth to the Third District. The Fourth District is compensated primarily by the addition of 22,000 of the population of Chesterfield County from the current Seventh District.

Rural Southern and Western Virginia

The predominantly rural Fifth (southern and central Virginia), Sixth (bordering West Virginia), and Ninth (Southwest Virginia) Districts are contiguous and all are underpopulated, the total deficit being almost 136,000. The situation of the Ninth District is most immediate, since its population deficit in 2010 was 71,166 and its geographical location demands that it add population from either the Fifth or Sixth, or both.

As noted in describing Northern Virginia, the western part of that area had excess population of approximately 68,000 that could be transferred downstate. In addition, the First District, overpopulated to begin with and boosted by the initial addition of population from Northern Virginia (Prince William) had excess population available for transfer even after providing the underpopulated Hampton Roads districts the population they required.

Chapter 1 brings the three districts under discussion up to population equality initially by extending the Fifth and Sixth Districts north to the upper Piedmont and outer Northern Virginia area for additional population, contracting the Seventh District southeast in the process. The Fifth District adds 71,000 by picking up Madison and Rappahannock Counties from the Seventh District and most (50,000) of Fauquier County from the Tenth and First Districts. The Sixth District adds Page (Seventh) and Warren (Tenth) Counties for a gain of almost 62,000. The two districts then have enough combined excess population to bring the Ninth District to the required population count. The Fifth District provides almost 33,000 by transferring the City of Martinsville and a greater part of Henry County to the Ninth. The Sixth District provides almost 37,000 by transferring the City of Salem, a larger part of Roanoke County, and the part of Alleghany County now in the Sixth to the Ninth District.

A series of smaller adjustments along the First District-Seventh District boundary from Fauquier County to New Kent County result in a net shift of population to the Seventh and reduce the First to the ideal population.

Richmond Area

The City of Richmond and surrounding Chesterfield, Hanover, and Henrico Counties have a combined population of more than 900,000. Almost 60 percent of that population currently is in the Seventh District, with significant components included in the Third District (25 percent) and Fourth District (17 percent). Chapter 1 reduces the Seventh District component by 56,000, although the Richmond area retains a slim majority (52 percent) of the district. As described above, the population taken from the Richmond area Seventh District was used to help bring the Third District and Fourth District populations up to the required district total. Approximately 34,000 of the population in Richmond City and Henrico County is shifted to the Third District; almost 22,000 of the population of Chesterfield County is moved to the Fourth District.

APPLICATION OF TRADITIONAL REDISTRICTING CRITERIA

The Privileges and Elections Committee of the Senate (the Committee) on March 25, 2011, adopted criteria that identify the standards applied in drawing new congressional districts.

Population Equality

The Committee emphasized adherence to population equality among congressional districts. Its first redistricting criterion mirrors the Virginia Constitution's statement on population equality among districts and provides:

I. Population Equality

The population of legislative districts shall be determined solely according to the enumeration established by the 2010 federal census. The population of each district shall be as nearly equal to the population of every other district as practicable. (Senate Privileges and Elections Committee, Committee Resolution No. 2. Adopted March 25, 2011).

Chapter 1 congressional districts all are at 0.00 percent deviation. Nine of the 11 districts have exactly the ideal population; two districts have an absolute deviation of one (1) person.

Equal Protection Clause and Voting Rights Act Considerations

The Committee adopted the following criterion on compliance with the United States Constitution and Voting Rights Act:

II. Voting Rights Act

Districts shall be drawn in accordance with the laws of the United States and the Commonwealth of Virginia including compliance with protections against the unwarranted retrogression or dilution of racial or ethnic minority voting strength. Nothing in these guidelines shall be construed to require or permit any districting policy or action that is contrary to the United States Constitution or the Voting Rights Act of 1965. (Senate Committee on Privileges and Elections, Committee Resolution No. 2 Adopted March 25, 2011).

The impact of Chapter 1 on racial minority groups is discussed in detail in Attachment 5. There is one district with African American total and voting age majorities in the current plan and Chapter 1 likewise includes one majority-minority district, the Third District in both cases.

Contiguity and Compactness

The third criterion adopted by the Committee incorporated Virginia's constitutional requirement for contiguity and compactness with reference to the

1992 and 2002 cases in which the Virginia Supreme Court interpreted these constitutional standards.

III. Contiguity and Compactness

Districts shall be based on legislative consideration of the varied factors that can create or contribute to communities of interest. These factors may include, among others, economic factors, social factors, cultural factors, geographic features, governmental jurisdictions and service delivery areas, political beliefs, voting trends, and incumbency considerations. Public comment has been invited, has been and continues to be received, and will be considered. It is inevitable that some interests will be advanced more than others by the choice of particular district configurations. The discernment, weighing, and balancing of the varied factors that contribute to communities of interest is an intensely political process best carried out by elected representatives of the people. Local government jurisdiction and precinct lines may reflect communities of interest to be balanced, but they are entitled to no greater weight as a matter of state policy than other identifiable communities of interest. (Senate Committee on Privileges and Elections, Committee Resolution No. 2. Adopted March 25, 2011).

The Court in *Jamerson* gave "proper deference to the wide discretion accorded the General Assembly in its value judgment of the relative degree of compactness required when reconciling the multiple concerns of apportionment." (*Jamerson v. Womack*, 244 Va. 506, 517 (1992)). Statistical measures of compactness thus are not determinative in the Virginia context; Chapter 1 compactness scores by standard measures are nearly identical to those of the current set of districts.

Average Compactness Scores

<u>Measure</u>	<u>Current Plan</u>	<u>Chapter 1</u>
Roeck	0.21	0.21
Polsby-Popper	0.17	0.15

Schwartzberg

0.66

0.66

Localities, Precincts, and Communities of Interest

Chapter 1 splits 14 localities to meet the criteria adopted by the Committee, a reduction from the 19 localities split by the current congressional plan. (These totals exclude three localities in each plan that technically are split but in which the entire locality population is in one district while one or more water blocks without population are in another district.) All of the localities split by Chapter 1 are already split in the current plan, including eight large localities with populations exceeding 100,000 (Chesterfield, Henrico, Fairfax and Prince William Counties and the Cities of Hampton, Newport News, Norfolk, and Richmond). Chapter 1 reunites four smaller localities (Alleghany, Brunswick, and Caroline Counties and the City of Covington) and York County, which were split in the current plan.

Chapter 1 splits 10 precincts across the state to meet the criteria adopted by the Committee, a significant reduction from the 26 split precincts in the current plan. (As in the case of split localities, these numbers exclude technically split precincts where all of the precinct's population is in one district and there is no population in the other district.)

The General Assembly heard, considered, and balanced many points of view on communities of interest beyond those reflected in the communities contained in localities and precincts. Testimony and debates point out the wide variety of competing communities of interest, including those defined by

geographic features such as mountain ranges and valleys, by economic character, by social and cultural attributes, and by services.

Partisan and Incumbency Considerations

As the 2011 and 2012 committee and floor transcripts reflect, respect for incumbency was taken into account in the development of Chapter 1 districts. No incumbents were placed in the same district and, with two exceptions, Chapter 1 retains 80 percent or more of the current district's core constituency population (see Tables 1 and 2). The exceptions are the Eleventh District with 29 percent new population and the First District with 24 percent new population.

The election history reports for the current plan and Chapter 1 show that the vote in Virginia's congressional districts aligns strongly with one or the other major political party (See Table 3). Chapter 1 alterations to the districts caused little or no change in the projected vote in about half the districts. Where the vote projects do change at least somewhat measurably, notable is the reduced Republican vote in the Eleventh (by five to six percent) and Third (by three percent) Districts. On the other hand, the Republican vote is projected to increase by one to two percent in Fourth, Seventh, and Tenth Districts and one percent in the Eighth District.

Chapter 1 was reported from the Privileges and Elections Committee by a 19 to 3 vote. All 14 Republicans, joined by an Independent who caucuses with the Republicans, voted to report. The votes of the seven Democratic members were split, four voting for and three against reporting HB 251. The ensuing floor

vote on passage of the bill showed the same pattern. All 64 Republicans who voted favored passage, as did the lone Independent member. Democrats were divided. Nine voted in favor of passage, while a majority (twenty-one members) of the caucus voted against the bill. Two Democrats did not vote.

Votes in the Senate followed party lines. Eight Republicans voted in favor and seven Democrats opposed the motion to report the bill from the Senate Privileges and Elections Committee. The floor vote on final passage showed all 20 Republicans in favor, all 19 Democrats who voted were opposed, and one Democrat did not vote.

The 2012 voting patterns followed those on congressional measures during the 2011 Special Session of the General Assembly. House Bill 251 in 2012 was identical to the version of House Bill 5004 that passed the House of Delegates at the 2011 Special Session. (The bill as passed by the House was identical to the introduced version except for a minor adjustment to unsplit one voting precinct.) The House Privileges and Elections Committee reported House Bill 5004 by a 17 to 2 vote, with three members not voting. All 11 Republicans who voted favored the bill; two did not vote. Five Democrats voted in the affirmative, while two were opposed and one did not vote. The floor vote on passage, 71 to 23 with six members not voting, reflected a similar pattern. All but four Republicans voted to pass the bill; two voted against passage and two did not vote. The two Independents, who caucused with the Republicans, also voted in favor of the bill. A majority (21) of Democrats opposed the bill, while 14 voted in the affirmative and four did not vote.

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The Senate Privileges and Elections Committee replaced the House redistricting plan with the plan of Senate Bill 5004 (Locke) by removing the House language in House Bill 5004 and inserting the Locke bill's language in its place. The bill was reported from committee, rereferred to committee from the floor, and reported again by the committee as a substitute with some additional changes. All nine Democrats voted to report the bill on both votes. No Republicans supported either version: All six voted against on the first vote; two did not vote on the second occasion while the other four were recorded in opposition. The floor vote on the Senate version of House Bill 5004 was divided by party. All 22 Democrats voted in favor of passage, while, among Republicans, 15 opposed it and three did not vote. The House of Delegates rejected the Senate version of the bill, effectively ending 2011 consideration of redistricting. No House Republican supported the Senate version; 51 voted against and eight did not vote. One of the two Independents likewise opposed the measure and one did not vote. Among Democrats, 30 voted for the Senate version, four opposed it, and five did not vote.

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Table 1
Chapter One Districts
Components of Population Adjustments

District	2010 Total	Retained	%	Transferred	Added	Ch. 1 Total
1	786,327	556,094	76%	230,143	171,272	727,366
2	646,184	618,267	85%	27,917	109,099	727,366
3	663,390	604,608	83%	58,782	122,758	727,366
4	738,639	699,949	96%	38,690	22,417	727,366
5	685,859	652,915	90%	32,944	74,450	727,365
6	704,056	665,671	92%	38,385	61,695	727,366
7	757,917	640,903	88%	117,014	86,463	727,366
8	701,010	621,050	85%	79,960	106,316	727,366
9	656,200	656,122	90%	78	71,244	727,366
10	869,437	648,661	89%	220,776	78,704	727,366
11	792,095	518,160	71%	273,935	209,206	727,365

Table 2
Chapter One Districts
Core Constituency Report

District: 1	Total Population:	727,366	Voting Age Population:	543,139
Unchanged Area				
Population from District	1	556,094		422,033
Total Unchanged Area		556,094		422,033
From Other Districts				
Population from District	3	7,351		5,106
Population from District	7	14,481		10,797
Population from District	10	38,187		28,023
Population from District	11	111,253		77,180
Total From Other Districts		171,272		121,106
Total for District:	1	727,366		543,139
District: 2	Total Population:	727,366	Voting Age Population:	565,464
Unchanged Area				
Population from District	2	618,267		479,697
Total Unchanged Area		618,267		479,697
From Other Districts				
Population from District	1	83,598		65,718
Population from District	3	25,501		20,049
Total From Other Districts		109,099		85,767
Total for District:	2	727,366		565,464
District: 3	Total Population:	727,366	Voting Age Population:	560,158
Unchanged Area				
Population from District	3	604,608		466,232
Total Unchanged Area		604,608		466,232
From Other Districts				
Population from District	1	23,288		17,805
Population from District	2	27,917		20,543
Population from District	4	35,447		27,835
Population from District	7	36,106		27,743
Total From Other Districts		122,758		93,926
Total for District:	3	727,366		560,158
District: 4	Total Population:	727,366	Voting Age Population:	547,486
Unchanged Area				
Population from District	4	699,949		527,298
Total Unchanged Area		699,949		527,298
From Other Districts				
Population from District	3	5,713		4,176
Population from District	7	21,704		16,012
Total From Other Districts		27,417		20,188
Total for District:	4	727,366		547,486

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District: 5	Total Population:	727,365	Voting Age Population:	574,341
Unchanged Area				
Population from District	5	652,915		517,503
Total Unchanged Area		652,915		517,503
From Other Districts				
Population from District	1	19,595		14,600
Population from District	4	3,243		2,609
Population from District	6	85		56
Population from District	7	20,681		16,246
Population from District	10	30,846		23,327
Total From Other Districts		74,450		56,838
Total for District:	5	727,365		574,341

District: 6	Total Population:	727,366	Voting Age Population:	572,702
Unchanged Area				
Population from District	6	665,671		525,297
Total Unchanged Area		665,671		525,297
From Other Districts				
Population from District	5	0		0
Population from District	7	24,042		18,849
Population from District	9	78		61
Population from District	10	37,575		28,495
Total From Other Districts		61,695		47,405
Total for District:	6	727,366		572,702

District: 7	Total Population:	727,366	Voting Age Population:	549,562
Unchanged Area				
Population from District	7	640,903		486,679
Total Unchanged Area		640,903		486,679
From Other Districts				
Population from District	1	66,246		46,887
Population from District	3	20,217		15,996
Total From Other Districts		86,463		62,883
Total for District:	7	727,366		549,562

District: 8	Total Population:	727,366	Voting Age Population:	580,212
Unchanged Area				
Population from District	8	621,050		502,331
Total Unchanged Area		621,050		502,331
From Other Districts				
Population from District	10	22,338		16,217
Population from District	11	83,978		61,664
Total From Other Districts		106,316		77,881
Total for District:	8	727,366		580,212

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District: 9	Total Population:	727,366	Voting Age Population:	584,877
Unchanged Area				
Population from District	9	656,122		528,070
Total Unchanged Area		656,122		528,070
From Other Districts				
Population from District	5	32,944		26,093
Population from District	6	38,300		30,714
Total From Other Districts		71,244		56,807
Total for District:	9	727,366		584,877

District: 10	Total Population:	727,365	Voting Age Population:	520,811
Unchanged Area				
Population from District	10	648,661		463,505
Total Unchanged Area		648,661		463,505
From Other Districts				
Population from District	8	0		0
Population from District	11	78,704		57,306
Total From Other Districts		78,704		57,306
Total for District:	10	727,365		520,811

District: 11	Total Population:	727,366	Voting Age Population:	548,595
Unchanged Area				
Population from District	11	518,160		390,215
Total Unchanged Area		518,160		390,215
From Other Districts				
Population from District	1	37,416		25,897
Population from District	8	79,960		62,763
Population from District	10	91,830		69,720
Total From Other Districts		209,206		158,380
Total for District:	11	727,366		548,595

Table 3
Chapter One Districts
Projected Republican Vote

District	Current Districts		Chapter 1 Districts	
	2009 Governor	2008 President	2009 Governor	2008 President
1	65%	53%	66%	53%
2	62%	50%	62%	50%
3	34%	25%	31%	22%
4	61%	50%	63%	51%
5	61%	52%	62%	52%
6	67%	58%	67%	58%
7	66%	54%	68%	56%
8	39%	32%	40%	33%
9	67%	59%	66%	59%
10	61%	48%	63%	50%
11	55%	44%	50%	38%

The vote by census block first was estimated from known precinct election returns. The values for each census block in a district then were summed to produce an estimated district vote for each candidate.

CONGRESSIONAL REDISTRICTING PLAN

STATEMENT OF ANTICIPATED MINORITY IMPACT

The current congressional district plan includes the Third District in which African-Americans constitute a 56.8 percent majority of the total population and a 53.2 percent majority of the voting age population. The Fourth District includes the second highest percentage of African-Americans, who constitute 33.6 percent of the total population and 32.3 percent of the voting age population of that District.

Table 5.1 presents information relating to demographic changes in these two districts between 2000 and 2010 and the effect of Chapter 1 on the minority total and voting age percentages in these districts. Chapter 1 complies with the requirements of Section 5 of the United States Voting Rights Act by retaining minority strength in the redrawn Third District comparable to the minority strength of the current Third District under the 2010 Census.

Minority Population Trends

Virginia's African-American population increased from 1,390,293 to 1,551,399 between 2000 and 2010, a growth rate of 11.6 percent and a percentage change from 19.6 percent to 19.4 percent of the total population. Under the 2010 Census option of identifying oneself by more than one race, the total number who identified as African-American only or as African-American and some other combination was 1,653,563 or 20.7 percent of the total population. (The data used by the General Assembly in redistricting allocated those who included White as part of their multiple race identity to the minority race group. The data used in the following analysis are based on this allocation.)

The African-American population grew at a slower rate than the overall state average (11.6 percent compared to 13 percent). The attached analysis by the Weldon Cooper Center for Public Service of the University of Virginia succinctly summarizes the patterns of growth of the African-American population throughout the decade. Briefly, the distribution of African-Americans in Virginia has been relatively constant during the last decade, with the African-American population being concentrated in the eastern half of the state.

These patterns are reflected in the statistics for the current Congressional districts and had implications for drawing the new districts. As Table 5.1 demonstrates, below average growth left the Third District significantly below ideal district size. The Third District gained less than 20,000 persons and was short of the ideal district size by 63,976 persons.

As in 2000, the most dramatic change in Virginia's demographic base, mirroring national patterns, was the increase in Hispanic population. The Hispanic population increased from 4.7 percent of the state population in 2000 to 7.9 percent in 2010,

representing a gain of over 302,285 people and a growth rate of 91.7 percent. While virtually every locality showed some growth in Hispanic population, the majority of that population is concentrated in Northern Virginia. Over one-quarter of the total Hispanic population is in Fairfax County, with the adjoining localities also showing significant percentages of Hispanic population. Two current congressional districts (Districts 8 and 11) contain more than 15 percent Hispanic population, both of which are located in Northern Virginia. No current congressional district contains more than 20 percent Hispanic population. In Chapter 1, Districts 8 and 11 both still contain more than 15 percent Hispanic population, with the Hispanic population increasing in both districts. No congressional district in Chapter 1 contains more than 20 percent Hispanic population.

Asians make up 5.5 percent of Virginia's population, up from 3.7 percent, and increasing from 261,025 to 439,890 between 2000 and 2010 at a growth rate of 68.5 percent. The Asian population is most heavily concentrated in Northern Virginia and tends to be fairly evenly distributed throughout the region rather than concentrated. Two current congressional districts (Districts 8, and 10) contain more than 10 percent Asian population and one district (District 11) contains more than 15 percent, all of which are located in Northern Virginia. No current congressional district contains more than 20 percent Asian population. In Chapter 1, Districts 8 and 10 both still contain more than 10 percent Asian population, with the population decreasing slightly in District 10 and increasing slightly in District 8. In Chapter 1, District 11 still contains more than 15 percent Asian population, with the Asian population increasing. No current congressional district contains more than 20 percent Asian population.

The Majority African-American District

Chapter 1 maintains one majority minority district in Virginia. The shortfall in population in the Third District is offset by shifting the whole City of Petersburg from the Fourth to the Third district. Additional population from the Cities of Hampton, Norfolk, and Richmond and the County of Henrico also shift to the Third. New Kent County is shifted from the Third District to the Seventh and fewer people from the City of Newport News and the Counties of New Kent and Prince George are assigned to the Third District.

The Fourth District gains population primarily in Chesterfield and Prince George Counties to offset the loss of Petersburg, and it retains a significant African American population and a majority of its present component parts.

The resulting population statistics shown in Table 5.1 reflect the need to add territory so as to meet equal population requirements and the non-retrogression requirements of Section 5. Other factors came into play in the shaping of these districts, including communities of interest, incumbency, and political considerations. As Table 5.1 shows, Chapter 1 adjustments to the Third and Fourth Districts to add territory to the Third District result in an increase in the total and voting age African-American populations by 3.3 percent and 3.2 percent, respectively, and both total and voting age populations are increased to over 55 percent each. The same adjustments result in slight

reductions from the total and voting age population figures in the Fourth District of 2 percent and 2.2 percent, respectively. However, both figures remain over 30 percent and retain significant influence for African Americans in the Fourth District.

Alternative Plans

In addition to Chapter 1, four plans were presented to the General Assembly during its Special Session on redistricting held during 2011. The first plan, House Bill 5004, was introduced by William R. Janis. This plan is identical to the plan contained in Chapter 1.

There were also three alternative plans presented during the Special Session on redistricting.

The first alternative plan, Senate Bill 5003 was introduced by Senator John C. Miller. The districts in Senate Bill 5003 were drawn by students at the College of William and Mary and this plan was one of the winning plans in the Virginia College and University Redistricting Competition. Table 5.1 includes the relevant information with regard to the anticipated impact of this plan. Briefly, in Senate Bill 5003, like Chapter 1, the Third District retained a majority African-American total population; however, the configuration of the districts is different. The total and voting age African-American populations in the majority minority district are 7.1 percent and 6.2 percent less, respectively, than in Chapter 1, and the total and voting age African-American populations are both below 55 percent. In the district with the second highest percentage of African-American population, the total and voting age African-American populations are 2.5 percent and 1.5 percent higher, respectively, than in Chapter 1.

The second alternative plan, Senate Bill 5004, was introduced by Senator Mamie E. Locke. Table 5.1 includes the relevant information with regard to the anticipated impact of this plan. Briefly, this plan, like Chapter 1, contained one majority African-American district, though this district shifted from the Third District to the Fourth. The Third District, under this plan, included the second highest percentage of African-American population. The configurations of the Third and Fourth Districts in this plan are essentially a reconfiguration of the current Third and Fourth Districts. The total and voting age African-American populations in the majority minority district are 6.0 percent and 5.2 percent less, respectively, than in Chapter 1, and the total and voting age African-American populations are both below 55 percent. In the district with the second highest percentage of African-American population, the total and voting age African-American populations are 12.2 percent and 10.3 percent higher, respectively, than in Chapter 1.

The third alternative plan consists of substitute bills for Senate Bill 5004 and House Bill 5004 adopted in the Senate, which were identical. Table 5.1 includes the relevant information with regard to the anticipated impact of this plan. Briefly, this plan, like Chapter 1, contained one majority African-American district, though this district shifted from the Third District to the Fourth. The Third District, under this plan, included the second highest percentage of African-American population. The configurations of

Attachment 5

the Third and Fourth Districts in this plan are essentially a reconfiguration of the current Third and Fourth Districts. The total and voting age African-American populations in the majority minority district are 6.5 percent and 5.5 percent less, respectively, than in Chapter 1, and the total and voting age African-American populations are both below 55 percent. In the district with the second highest percentage of African-American population, the total and voting age African-American populations are 12.6 percent and 10.8 percent higher, respectively, than in Chapter 1.

Chapter 1 was introduced as House Bill 251 by Delegate Robert B. Bell during the 2012 Regular Session of the General Assembly after the General Assembly was unable to pass a plan during the 2011 Special Session on redistricting. An identical Senate bill, Senate Bill 455, introduced by Senator Jill Holtzman Vogel, was reported out of the Senate Privileges and Elections Committee. Chapter 1 passed both houses primarily with Republican support. Six of the 13 Democratic African-American Delegates voted for Chapter 1, with the remaining seven voting against it. None of the five Democratic African-American Senators voted for Chapter 1.

Attachment 5

Attachment 5-C -- Table 5.1

Comparison Table: Virginia Congressional Districts--Majority Minority and Influence Districts

Current District	Current District 2000 TPOP	Current District 2000 TPOP Black Percent	Current District 2000 VAP Black Percent	Current District 2010 TPOP	Current District 2010 Actual Deviation	Current District 2010 Percent Deviation	Current District 2010 TPOP Black Percent	CH.1/ HB 5004 District TPOP Black Percent	CH.1/ HB 5004 District TPOP Black Percent	SB 5003 VAP Black Percent	SB 5004 TPOP Black Percent	SB 5004 VAP Black Percent	HB 5004 Sub./ SB 5004 Sub. TPOP Black Percent	HB 5004 Sub./ SB 5004 Sub. VAP Black Percent
3	643,476	56.8	53.2	663,390	- 63,976	- 8.8	56.2	53.1	59.5	52.4	44.6	41.6	45.0	42.1
4	643,477	33.6	32.3	738,639	+ 11,273	1.5	34.4	33.5	32.4	***	53.5	51.1	53.0	50.8
5										34.9				

Attachment 5-C -- Table 5.2

Senate of Virginia Majority Minority District Changes

District 3 -- Additions:	more of Hampton	+ 32,941
	more of Henrico County	+ 14,550
	more of Isle of Wight County (additional split precincts with 0 population added)	+ 0
	more of Norfolk	+ 5,765
	Petersburg	+ 32,420
	more of Richmond City	+ 19,768
	part of Suffolk (split precincts with 0 population added)	+ 0
Subtractions:	New Kent County	- 18,429
	part of Newport News	- 20,090
	part of Prince George County	- 2,686
	remainder of York County	- 263
		<u>727,366</u>
District 4 -- Additions:	more of Chesterfield County	+ 21,704
	more of Prince George County	+ 2,686
Subtractions:	remainder of Brunswick County	- 3,243
	part of Isle of Wight County (split precincts with 0 population moved to District 3)	- 0
	part of Suffolk (split precincts with 0 population moved to District 3)	- 0
	Petersburg	- 32,420
		<u>727,366</u>

2010 Census Brief: Spotlight on Virginia's African American Population

February 22 – The United States Census Bureau recently released local level 2010 Census population counts, including data on race. This brief provides a snapshot of Virginia's black and African American population on April 1, 2010:

- Black/African American remains the largest minority group in Virginia. More than 1.5 million Virginia residents reported themselves to be black or African American, accounting for nearly 20 percent of the total population.
- The distribution of the black population across the commonwealth has been relatively stable over the past three decades. Blacks are concentrated in the Eastern half of the state while the Valley and Southwest regions have much smaller black populations.
- Norfolk and Richmond have the largest black populations (exceeding 100,000), while Petersburg city has the largest percentage of blacks (79 percent). Richmond lost nearly 10,000 (or 8.6 percent) of its black population between 2000 and 2010, the largest decrease in the commonwealth.

Percent of Population That Is Black or African American, April 1, 2010



Top Five Localities with the Largest Number of Black Residents		Top Five Localities with the Largest Percentage of Black Residents	
Norfolk City	104,672	Petersburg City	79.1%
Richmond City	103,342	Emporia City	62.5%
Fairfax County	99,218	Greensville County	59.8%
Henrico	90,669	Sussex County	58.1%
Virginia Beach City	85,935	Brunswick County	57.3%

This is one of a series of Census Briefs prepared by the Demographics & Workforce Group of the University of Virginia's Weldon Cooper Center for Public Service. For more information and related data tables, visit our website at www.coopercenter.org/demographics.



Attachment 5

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U.Va. Assesses 2010 Census Data on Virginia's Asian Population

March 2, 2011 — The latest census brief from the University of Virginia's Weldon Cooper Center for Public Service highlights census data on people of Asian origin living in Virginia.

The center continues its efforts to make 2010 U.S. Census results, released last month, more accessible and user-friendly.

- As of April 1, 2010, almost 440,000 Virginia residents were Asian, accounting for 5.5 percent of the total population. This constitutes a 69 percent increase since 2000.
- Nine out of every 10 Asians lived in Virginia's three major metropolitan areas: Northern Virginia (71 percent), Hampton Roads (13 percent) and Richmond (9 percent). High concentrations of Asians were also found in college and university communities such as Charlottesville, Williamsburg, Harrisonburg and Lynchburg cities and York, Montgomery, Albemarle and Roanoke counties.
- More than two-thirds of Virginia's Asians were U.S. citizens: 28 percent were native citizens; 40 percent were born outside of the U.S. and naturalized; and 32 percent were foreign-born non-citizens.
- The top five birth countries of Virginia's foreign-born Asians were India, Korea, Philippines, Vietnam and China.

Birthplaces of Virginia's Asian Population, April 1, 2010



Localities with the Largest Number of Asian Residents		Localities with the Largest Percentage of Asian Residents	
Fairfax Co.	189,661	Fairfax Co.	17.5%
Loudoun	46,033	Fairfax city	15.2%
Prince William	30,317	Loudoun	14.7%
Virginia Beach	26,769	Arlington	9.6%
Henrico	20,052	Falls Church	9.4%

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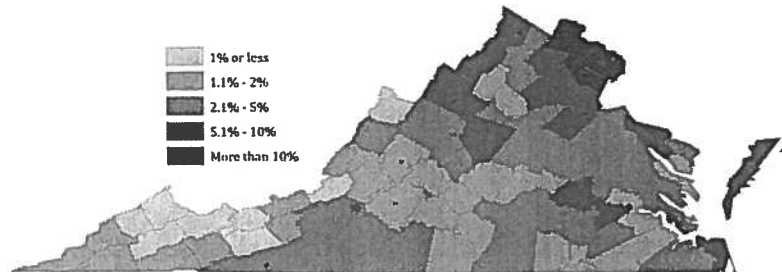
U.Va. Assesses 2010 Census Data on Virginia's Hispanic Population

February 16, 2011 — Continuing efforts to make 2010 U.S. Census data more accessible and user-friendly, demographers at the University of Virginia's Weldon Cooper Center for Public Service have assessed the data on recently released local-level 2010 population counts, including data on people of Hispanic origin living in Virginia.

Here are highlights of Virginia's Hispanic population as of April 1, 2010:

- More than 630,000 Virginia residents were of Hispanic origin, accounting for nearly 8 percent of the total population. This constitutes a 92 percent increase since 2000.
- Sixty-two percent of the commonwealth's Hispanics live in Northern Virginia. At the same time, areas such as Culpeper, James City and Orange counties and Suffolk city, which had few Hispanics in 2000, now have sizable Hispanic populations.
- Fifty-three percent of Hispanics in Virginia are native citizens. Thirteen percent of Hispanics were born abroad and became naturalized citizens of the U.S.; and 34 percent of Hispanics are foreign-born non-citizens.
- Most of Virginia's foreign-born Hispanics were born in El Salvador, Mexico, Peru, Bolivia and Guatemala.

Percent of Population That Is Hispanic, April 1, 2010



Localities with the Largest Number of Hispanic Residents		Localities with the Largest Percentage of Hispanic Residents	
Fairfax Co.	168,482	Manassas Park city	32.5%
Prince William Co.	81,460	Manassas city	31.4%
Loudoun Co.	38,576	Prince William Co.	20.3%
Arlington Co.	31,382	Alexandria city	16.1%
Virginia Beach city	28,987	Fairfax city	15.8%

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U.Va. Assesses 2010 Census Data on Virginia's Multi-Racial Population

March 9, 2011 — Continuing their efforts to make 2010 U.S. Census data more accessible and user-friendly, demographers at the University of Virginia's Weldon Cooper Center for Public Service have assessed the data on recently released local-level 2010 population counts, including data on people of two or more races living in Virginia.

"The 2010 Census data reflects increasing diversity in the country, and in Virginia," said Qian Cai, director of the Cooper Center's Demographics & Workforce group. "This year, with redistricting under way in Virginia, current information on racial and ethnic heritage is of particular importance for insuring fairness in defining districts."

Here are highlights of Virginia's multi-race population as of April 1, 2010:

- More than 233,000 Virginia residents, or 2.9 percent of the population, reported that they belong to two or more of the six race categories counted in the federal census: white; black or African-American; American Indian and Alaska native; Asian; Native Hawaiian and other Pacific Islander; or some other race. (Note: People of Hispanic origin may be of any race. Hispanic ethnicity is reported in response to a different census question.)
- This is an increase from the 2000 census – the first year in which people could identify themselves as multi-racial – when 2 percent of the population reported that they belonged to two or more races.
- Most multi-racial Virginians reported belonging to just two races; only about 19,000 people reported belonging to three or more. Of the biracial Virginians, 29 percent reported being white and black; 28 percent white and Asian; and the remainder other combinations of the six race categories.
- Multi-racial Virginians tend to live in metropolitan areas, particularly Northern Virginia and Hampton Roads. Manassas Park has the highest percentage of multi-racial residents at 5.4 percent.

Localities with the Largest Number of Multi-Race Residents		Localities with the Largest Percentage of Multi-Race Residents	
Fairfax County	43,915	Manassas Park city	5.4%
Prince William	20,500	Prince William County	5.1%
Virginia Beach	17,656	Manassas City	4.3%
Loudoun County	12,575	Newport News	4.3%
Norfolk	8,825	Fairfax County	4.1%

This is one of a series of Census Briefs prepared by the Demographics & Workforce Group of the Cooper Center. For information and related data tables, visit its website at www.coopercenter.org/demographics.

**LEGISLATIVE HISTORY OF
2012 VIRGINIA CONGRESSIONAL DISTRICT PLAN**

This Attachment provides a chronology that identifies the events, legislative actions, and proposals resulting in the enactment of House Bill 251 as Chapter 1 of the 2012 Acts of Assembly, signed by Governor Robert F. McDonnell on January 25, 2012, (hereafter Chapter 1). Chapter 1 contains the redistricting plan for the 11 congressional seats apportioned to Virginia under the 2010 Census results.

In 2005, the General Assembly began preparing for the decennial congressional and legislative reapportionment (commonly referred to as legislative redistricting) required by the Virginia Constitution, Article II, Section 6, with the Commonwealth's participation in Phases I and II of the Census Bureau's redistricting data program. The Division of Legislative Services was designated as the agency to coordinate with the Census Bureau and carry out the program. The Division operates under the general supervision of the Joint Reapportionment Committee. This bi-partisan committee represents the House of Delegates and Senate (Virginia Code §§ 30-263 through 30-265) and oversees preparations for redistricting. Participation in Phases I and II involved the review of census geography, the incorporation of Virginia's voting precincts in the Bureau's census geography, and the provision of 2010 Census redistricting data at the voting precinct level.

The second major step in preparing for redistricting was to build a geographic information system and acquire software to enhance the system used in 2001. A key component of the computer-based redistricting system was the website maintained by the Division of Legislative Services. The Division's redistricting website was begun in 2000 and maintained throughout the decade. This website,

<http://redistricting.dls.virginia.gov/2010/> was expanded for the 2011-2012 redistricting process to include more sophisticated mapping options and a mechanism for the public to comment on plans as they were introduced and made public. The objective of the expanded website was to provide for the broadest and promptest dissemination of redistricting information, population and election history data, interactive maps, and redistricting proposals as they were made public. Copies of public comments made on the website were routinely distributed to the Privileges and Elections Committees.

Information available through the website to legislators and the public includes data on the current and proposed districts; interactive maps; statistical reports; block, precinct, locality, and district-level population data; and shape and block-assignment files. Notices of redistricting public hearings and transcripts of the hearings and Committee meetings are published on the redistricting website. The House and Senate Privileges and Elections Committees Redistricting Criteria resolutions and *Drawing the Line*, a publication created by the Division of Legislative Services about redistricting in Virginia, are also found on the website. In addition, there is a webpage that contains 2010 Census data, an explanation of file formats, and free data downloads.

The Division's website was updated regularly. The events described in the following chronology were routinely posted on the website and available through the General Assembly's Legislative Information System (<http://lis.virginia.gov/>). The statistical reports for the congressional redistricting legislation considered by the General Assembly in its 2011 Special Session I and its 2012 Regular Session, were generated using 2010 Census population data and the precinct boundaries that were included in the 2010 Census reports.

CHRONOLOGY

2005 through 2009

The Division of Legislative Services, subject to oversight from the Joint Reapportionment Committee, participated in Phases I and II of the Census Bureau's redistricting program and began constructing the new computer redistricting system with funds appropriated in the state's biennial budgets.

April 1, 2010

Census Day.

August through December 2010

Delegate Mark L. Cole of Fredericksburg announced on **August 23, 2010**, that the redistricting subcommittee of the House of Delegates Committee on Privileges and Elections was scheduling a series of six public hearings throughout the Commonwealth in preparation for the 2011 redistricting process with a goal of encouraging broad public input into the redistricting process. The six different public hearings took place in September, October, and December in Roanoke, Norfolk, Fairfax, Danville, Stafford, and Richmond. Transcripts of the hearings were made available on the Division's redistricting website and may be viewed in Attachment 15.

In **August 2010**, the Division published the first issue of its redistricting newsletter, *Drawing the Line 2011*, with population estimates for the current districts and background information on the redistricting process. The newsletter was mailed to members of the Virginia General Assembly and posted on the Division's website. In

addition, all interested parties were provided notification by email with a link to the website.

On **September 16, 2010**, Senator Janet Howell, Chair of the Senate Committee on Privileges and Elections announced a schedule of four public hearings in Roanoke, Herndon, Portsmouth, and Richmond in October, November, and December. Transcripts of the hearings were made available on the Division's redistricting website and may be viewed in Attachment 15.

In the late fall of 2010, Christopher Newport University and the Public Mapping Project announced a 2011 Virginia College and University Legislative Redistricting Competition with a **December 15, 2010**, deadline to register. The Competition website was: <http://www.varedistrictingcompetition.org/>. Twelve colleges participated and 55 plans were submitted by mid-March 2011 for state legislative and congressional districts. SB 5003 is one of the competition plans and was a first place winner in the Governor's Commission Division. It is a congressional redistricting plan and created by a William and Mary Law School team. It was introduced on April 7, 2011, by request by Senator J. C. Miller.

On **December 17, 2010**, the Joint Reapportionment Committee met in Richmond and received an update from the Division of Legislative Services on its work with the Census Bureau and its preparations for the redistricting process. The Committee adopted a resolution directing staff to continue preparations for redistricting in 2011 and authorizing the Division to proceed with necessary steps to enter into contracts for a redistricting software application and the development of a website to provide public access to the process and allow public comments on proposed redistricting plans.

January and February 2011

The General Assembly met for the 2011 Regular Session from **January 12 to February 27, 2011**, and adopted House Bill 1507 (Ch. 3, 2011 Acts of Assembly) to move the usual June 14 primary date to August 23, 2011, and allow time for enactment and Section 5 Voting Rights Act review of the redistricting plans for the House of Delegates and Senate before the November 2011 elections for those bodies. The bill passed unanimously and took effect immediately upon passage on February 17, 2011, subject to Department of Justice review that was initiated February 24, 2011. DOJ sent their preclearance notification on March 22, 2011.

On **February 3, 2011**, Virginia received the Public Law 94-171 redistricting data from the Census Bureau, and the Division posted the data on its website along with explanatory information. The Joint Reapportionment Committee met **February 7 and 23, 2011**, for staff reports on its readiness to draw redistricting plans and provide for public access to and comments on plans.

On **February 25, 2011**, Delegate M.K. Cox introduced House Joint Resolution No. 986 applying to the Governor to call a redistricting special session to begin immediately upon adjournment of the 2011 Regular Session. Both houses agreed and the resolution took effect **February 26, 2011**. The 2011 Regular Session adjourned on Sunday, **February 27, 2011**, and on that day the Governor issued his proclamation calling for the special session. The 2011 Special Session I convened February 27 and agreed to House Joint Resolution 5002 setting the ground rules for the Special Session. The Special Session then recessed until April 4, 2011, allowing time for public hearings and the drawing of plans.

March and April 2011

The House and Senate Privileges and Elections Committees announced on **March 18, 2011**, that the committees would hold a series of eight joint public hearings around the Commonwealth on March 31, April 2, and April 4, 2011. Information on the public hearings and the 2010 populations of the then current House of Delegates, Senate, and congressional plans were posted on the redistricting website and covered in the issue Number 2 of *Drawing the Line 2011*. Transcripts for the hearings are available on the website and in Attachment 15.

On **March 25, 2011**, the House and Senate Committees on Privileges and Elections met separately in Richmond and each adopted a committee resolution setting out the criteria that the committee would follow in reviewing redistricting plans for the House of Delegates and Senate. The Senate Committee also adopted a resolution for criteria in reviewing congressional district plans. See attachment 4. This resolution was identical to the resolution adopted July 9, 2001, by both the House and Senate Committees on Privileges and Elections with one updated reference to court cases. The House Committee held extensive discussions on the criteria for redrawing House of Delegates districts and adjourned without taking up congressional redistricting criteria.

The General Assembly placed its primary emphasis during April on the passage of redistricting plans for the House of Delegates and Senate in advance of the November 2011 election. However, beginning **April 6, 2011**, members of the General Assembly began introducing bills to redraw congressional districts and releasing congressional district plans on the Division's redistricting website.

Attachment 17

Here is the chronology for the plans made public and for the various legislative actions taken on the congressional district plans. The parenthetical notes show the name of the plan as shown on the Division website.

April 6, 2011 Delegate Bill Janis introduced **HB 5004** and it was referred to the House Committee on Privileges and Elections. (HB 5004 - B. Janis); posted on website April 6, 2011.

April 7, 2011 Senator J.C. Miller introduced **SB 5003**, by request, and it was referred to the Senate Committee on Privileges and Elections. (SB 5003 - J.Miller (William & Mary Plan)); posted April 8, 2011. No further action was taken on SB 5003.

April 11, 2011 Senator Locke introduced **SB 5004** and it was referred to the Senate Committee on Privileges and Elections. (SB 5004 - M. Locke); posted April 11, 2011. No further action was taken on SB 5004. However, a later version of this plan was made public and subsequently placed in HB 5004 by a Senate Committee on Privileges and Elections substitute amendment for HB 5004. See, June 6 and 7, 2011, below.

April 12, 2011 The House Committee on Privileges and Elections met, adopted one technical amendment to correct a Fairfax County precinct name, and reported HB 5004 with one amendment (17 - 2, Delegates Alexander and Howell, A.T. voting nay). The House voted 71-23 later on April 12 to report HB 5004 with the Committee amendment and two amendments offered by Delegate Janis to reunite the Taylor Elementary School Precinct (213) of the City of Norfolk in the Third Congressional District. The House communicated the engrossed HB 5004 to the Senate where it was referred to the Senate Committee on Privileges and Elections. The Senate Committee reported (9-6) a substitute for HB 5004.

April 25 and 27, 2011 The Senate met and recommitted HB 5004 to the Senate Committee on Privileges and Elections.

May through December 2011

June 6 through 9, 2011 Senator Locke released a substitute for her SB 5004 (SB 5004 - M.Locke Substitute); posted June 6, 2011. On June 9, 2011, the Committee on Privileges and Elections adopted and reported (9-4) an identical substitute for HB 5004 (HB 5004 Senate Committee Substitute (6/9/11)), posted June 7, 2011. On June 9, the Senate passed the HB 5004 Committee Substitute (22-15), the House rejected the Senate substitute amendment, and HB 5004 was put into conference.

The conference committee deadlocked. There was no further action taken on HB 5004 in 2011.

January 2012

January 10, 2012 Delegate Robert B. Bell prefiled HB 251, an exact duplicate of the 2011 engrossed HB 5004 as it had passed the House of Delegates (2012 HB251 - Robert B. Bell); posted January 11, 2012.

January 11, 2012 The 2011 Special Session adjourned sine die, and the General Assembly convened the 2012 Regular Session. The House Committee on Privileges and Elections met and Delegate Bell explained that HB 251 was the same as HB 5004 (2011 Special Session I) as it had passed the House in 2011. The Committee reported HB 251 by a vote of 19 - 3 (Delegates Scott, Sickles, and Spruill voting no).

Senator Jill Vogel introduced SB 455, which was the same as HB 5004 as it had been introduced and was referred to the Senate Committee on Privileges and Elections.

January 13, 2012 The House passed HB 251 by a vote of 74-21.

Attachment 17

January 16, 2012 HB 251 was referred to the Senate Committee on Privileges and Elections.

January 17, 2012 The Senate Committee on Privileges and Elections reported HB 251 by a vote of 8-7 and reported a substitute for SB 455 also by a vote of 8-7 that conformed it to HB 251.

January 20, 2012 The Senate passed HB 251 by a vote of 20-19 and engrossed the substitute for SB 455.

January 25, 2012 Governor McDonnell signed HB 251.

See attachments 3 and 5 for analyses of Chapter 1 of the 2012 Acts of Assembly and SB 5004 (Special Session I, 2011).

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