

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

DAWN CURRY PAGE, et al,

Plaintiffs,

v.

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,

Defendants,

v.

CONGRESSMEN ERIC CANTOR,  
ROBERT WITTMAN, BOB GOODLATTE,  
FRANK R. WOLF, RANDY FORBES,  
MORGAN GRIFFITH, SCOTT RIGELL,  
and ROBERT HURT

Intervenor-Defendants.

Civil Action No. 3:13-cv-678-REP-LO-AKD

**PLAINTIFFS' RESPONSE IN OPPOSITION TO DEFENDANTS' AND**  
**INTERVENORS' MOTIONS FOR SUMMARY JUDGMENT**

## TABLE OF CONTENTS

	Page
I. FACTUAL BACKGROUND: THE 2012 REAPPORTIONMENT AND PRECLEARANCE PROCESS .....	2
II. LOCAL RULE 56(B) STATEMENT OF DISPUTED FACTS .....	3
A. DEFENDANTS’ MOTION FOR SUMMARY JUDGMENT: DISPUTED FACTS .....	4
B. INTERVENORS’ MOTION FOR SUMMARY JUDGMENT: DISPUTED FACTS .....	6
III. LEGAL STANDARD ON SUMMARY JUDGMENT .....	8
IV. ARGUMENT .....	9
A. LEGAL STANDARD ON RACIAL GERRYMANDERING CLAIMS.....	11
B. DISPUTED ISSUES OF MATERIAL FACT ON WHETHER CONSIDERATIONS OF RACE PREDOMINATED PRECLUDE SUMMARY JUDGMENT .....	11
1. CD 3 Is Bizarrely Shaped and Disregards Traditional Redistricting Criteria .....	12
2. The Manner in Which the General Assembly Drew CD 3 Also Shows That Race Was the Predominant Purpose Behind the Plan.....	14
3. The Current CD 3 Has a Similar Composition to the District Held Unconstitutional in <i>Moon v. Meadows</i> .....	14
4. Statements By Legislators and Parties Here Prove That Race Was the Predominant Purpose Behind CD 3 .....	16
a. Statements by the Map’s Author.....	16
b. Senate Redistricting Criteria .....	17
c. Defendants’ and Intervenor’s Concessions .....	18
C. DEFENDANTS HAVE FAILED TO DEMONSTRATE THAT THE GENERAL ASSEMBLY’S USE OF RACE AS THE PREDOMINANT FACTOR WAS JUSTIFIED AS A MATTER OF LAW .....	19
1. Virginia Can Assert No Compelling Interest in Section 5 .....	20
a. A Court May Order Mid-Decennial Redistricting in Light of Intervening Supreme Court Decisions .....	21
b. Under the First Amendment, a Law Fails Strict Scrutiny Where an Intervening Supreme Court Decision Finds the Interest Asserted No Longer Compelling.....	22

**TABLE OF CONTENTS**

(continued)

	<b>Page</b>
2. Defendants and Intervenors Have Failed to Carry Their Burden.....	26
D. PLAINTIFFS NEED NOT PROVIDE AN ALTERNATIVE MAP AT THIS STAGE.....	28
V. CONCLUSION.....	30

## TABLE OF AUTHORITIES

	Page
 <b>CASES</b>	
<i>Beer v. United States</i> , 425 U.S. 130 (1976).....	27
<i>Bush v. Vera</i> , 517 U.S. 952 (1996).....	passim
<i>Citizens United v. FEC</i> , 558 U.S. 310 (2010).....	22, 23, 24
<i>Clark v. Putnam Cnty.</i> , 293 F.3d 1261 (11th Cir. 2002) .....	11, 13
<i>Davis v. FEC</i> , 554 U.S. 724 (2008).....	23
<i>FEC v. Wis. Right to Life, Inc.</i> , 551 U.S. 449 (2007).....	22
<i>Greater Baltimore Ctr. for Pregnancy Concerns, Inc. v. Mayor &amp; City Council of Baltimore</i> , 721 F.3d 264 (4th Cir. 2013) .....	13
<i>Hunt v. Cromartie</i> , 526 U.S. 541 (1999).....	8, 9, 13
<i>Jackson v. DeSoto Parish Sch. Bd.</i> , 585 F.2d 726 (5th Cir. 1978) .....	22
<i>Kirkpatrick v. Preisler</i> , 394 U.S. 526 (1969).....	21
<i>Long Beach Area Chamber of Commerce v. City of Long Beach</i> , 603 F.3d 684 (9th Cir. 2010) .....	23, 24
<i>Miller v. Johnson</i> , 515 U.S. 900 (1995).....	passim
<i>Moch v. East Baton Rouge Parish Sch. Bd.</i> , 548 F.2d 594 (5th Cir. 1977) .....	22
<i>Moon v. Meadows</i> , 952 F. Supp. 1141 (E.D. Va.), <i>aff'd</i> , 521 U.S. 1113 (1997) .....	passim

# TABLE OF AUTHORITIES

(continued)

Page

<i>Prejean v. Foster</i> , 227 F.3d 504 (5th Cir. 2000) .....	9, 13, 28
<i>Reynolds v. Sims</i> , 377 U.S. 533 (1964).....	21
<i>Riley v. Kennedy</i> , 553 U.S. 406 (2008).....	3
<i>Shaw v. Hunt</i> , 517 U.S. 899 (1996).....	11, 26, 27
<i>Shaw v. Reno</i> , 509 U.S. 630 (1993).....	11, 27
<i>Shelby County, Alabama v. Holder</i> , 570 U.S. ___, 133 S. Ct. 2612 (U.S. June 25, 2013) .....	passim
<i>SpeechNow.org v. FEC</i> , 599 F.3d 686 (D.C. Cir. 2010) .....	23
<i>Swann v. Adams</i> , 385 U.S. 440 (1967).....	21
<i>Upham v. Seamon</i> , 456 U.S. 37 (1982).....	30
<i>Wells v. Rockefeller</i> , 394 U.S. 542 (1969).....	21
<i>Whitcomb v. Chavis</i> , 403 U.S. 124 (1971).....	21, 22

## STATUTES

42 U.S.C. § 1973b(b) .....	3
42 U.S.C. § 1973c .....	passim
42 U.S. C. § 1973c(a).....	3
42 U.S.C. § 1973c(c).....	30

**TABLE OF AUTHORITIES**

(continued)

**Page**

Va. Code Ann. § 24.2-302.2 .....	2
----------------------------------	---

**RULES AND REGULATIONS**

Fed. R. Civ. P. 56(c)(4) .....	4
--------------------------------	---

Fed. R. Evid. 602 .....	4
-------------------------	---

Fed. R. Evid. 702 .....	4
-------------------------	---

Fed. R. Evid. 802 .....	4
-------------------------	---

LR 56(B) .....	3
----------------	---

**CONSTITUTIONAL**

Va. Const., art. II, § 6 .....	2
--------------------------------	---

Defendants' and Intervenor's Motions for Summary Judgment should be denied. Both rely on a fundamental misapprehension of the law and attempt to brush aside plainly material issues of fact.

Perhaps most fundamentally, Defendants and Intervenor's misunderstand the applicable burden. Plaintiffs need merely demonstrate that race was the predominant purpose in the General Assembly's 2012 reapportionment. Plaintiffs most certainly do *not* need to demonstrate that the Assembly acted illegitimately, much less that it intended to discriminate against or harm minorities. Once Plaintiffs demonstrate that race was the General Assembly's predominant purpose in composing the current Third Congressional District ("CD 3") -- as the record here vividly demonstrates -- then it is *Defendants'* burden to prove (on strict scrutiny no less) that the race-based districting both (a) served a compelling interest and (b) was narrowly tailored to serve that interest. On this record Defendants and Intervenor's can establish neither prong; indeed, they barely attempt the task.

Instead, Defendants and Intervenor's attempt to defend CD 3 by claiming that the General Assembly merely intended to comply with then-applicable Section 5 requirements. This is little more than a thinly-disguised effort to cloak mischievous racial gerrymandering in the guise of "compliance" with a statute that indisputably no longer applies to Virginia. But such a concession is more telling than perhaps intended, as it emphatically demonstrates that race was in fact the predominant purpose motivating the General Assembly.

These ill-conceived motions should be denied. Both are based on a fundamentally flawed understanding of applicable standards and the compelling record before the Court even before discovery commences.

# **I. FACTUAL BACKGROUND: THE 2012 REAPPORTIONMENT AND PRECLEARANCE PROCESS**

The Virginia Constitution requires the General Assembly to reapportion the Commonwealth's congressional districts every ten years into districts of "contiguous and compact territory . . . constituted as to give, as nearly as practicable, representation in proportion to the population of the district." Va. Const., art. II, § 6. Although the Constitution called for reapportionment in 2011, the General Assembly failed to adopt a new congressional plan in either the regular session or the special session convened specifically to address redistricting.

When the General Assembly reconvened for its 2012 session, the Republicans had maintained their majority in the House of Delegates and had secured a voting majority in the Senate.<sup>1</sup> A congressional plan that Delegate Bill Janis (the "Janis Plan") had presented in the 2011 session was again presented to both the House of Delegates and the Senate, notwithstanding that the Senate had previously rejected the same plan. *See* Declaration of John K. Roche ("Roche Decl.") ¶ 2, Ex. A at 6. With the Republicans now having a voting majority in the Senate, the Janis Plan was approved by both chambers. Roche Decl. ¶ 3, Ex. B. Governor Bob McDonnell signed the Janis Plan into law on January 25, 2012. *Id.* It is codified as Va. Code Ann. § 24.2-302.2, which defines the 2012 Congressional Plan (the "2012 Plan"), including the challenged CD 3.

Following the enactment of the 2012 Plan, Virginia submitted it to the U.S. Department of Justice ("DOJ") for preclearance under Section 5 of the Voting Rights Act of 1965 ("VRA"), 42 U.S.C. § 1973c ("Section 5 Submission"). Until recently, Virginia was a "covered jurisdiction" under Section 5, which meant that the Commonwealth was obligated to obtain

---

<sup>1</sup> The 2011 election resulted in 20 Democrats and 20 Republicans in the Senate; the tie-breaking vote was held by Republican Lieutenant Governor Bill Bolling.



preclearance from the DOJ or the U.S. District Court for the District of Columbia before “enact[ing] or seek[ing] to administer” any alteration of its practices or procedures affecting voting. *Id.* § 1973c(a)). Under Section 5, a redistricting map in a covered jurisdiction could not be precleared if it would “‘lead[] to a retrogression in the position of racial . . . minorities with respect to their effective exercise of the electoral franchise.’” *Riley v. Kennedy*, 553 U.S. 406, 412 (2008) (quoting *Beer v. United States*, 425 U.S. 130, 141 (1976)). Covered jurisdictions were identified by a “formula” set forth in Section 4 of the VRA. 42 U.S.C. § 1973b(b).

The Section 5 Submission emphasized CD 3’s racial purpose. Its “Statement of Anticipated Minority Impact” asserted that the 2012 Plan “complie[d] with the requirements of Section 5 . . . by retaining minority strength in the redrawn [CD 3] comparable to the minority strength of the [previous CD 3] under the 2010 Census.” Intervenor’s Br., Ex. A (Dkt. 39-1) at 1. The Submission explained that the City of Petersburg, as well as population from the Cities of Hampton, Norfolk, and Richmond and the County of Henrico were shifted into CD 3 “to meet equal population requirements and the non-retrogression requirements of Section 5.” *Id.* at 2.

On June 25, 2013, the Supreme Court decided *Shelby County, Alabama v. Holder*, 570 U.S. \_\_\_, 133 S. Ct. 2612 (U.S. June 25, 2013), holding that the coverage formula in Section 4 is unconstitutional. As a result, Virginia is no longer a covered jurisdiction under Section 5.

## **II. LOCAL RULE 56(B) STATEMENT OF DISPUTED FACTS**

Pursuant to LR 56(B), Plaintiffs must identify the facts enumerated by Defendants and Intervenor’s that are disputed. Publicly available data establish that many of these facts are

disputed. In addition, discovery has just begun,<sup>2</sup> and Plaintiffs are still gathering evidence relating to Defendants' and Intervenor's alleged facts. In view of ongoing discovery, a failure to dispute a fact at this stage should not be construed as an admission of that fact. At Defendants' request, Plaintiffs have provided an extension of time to respond to pending discovery requests. It is likely that additional material facts will be disputed once those responses are received. Nonetheless, the following facts enumerated and alleged by Defendants and Intervenor are disputed at this time:

**A. DEFENDANTS' MOTION FOR SUMMARY JUDGMENT: DISPUTED FACTS**

11. Plaintiffs dispute Defendants contention that "the compactness scores for [the 2012 Plan] are nearly identical to those of the prior benchmark plan." "An affidavit or declaration used to support or oppose a motion must be made on personal knowledge, set out facts that would be admissible in evidence, and show that the affiant or declarant is competent to testify on the matters stated." Fed. R. Civ. P. 56(c)(4). Defendants submitted no declaration or affidavit to support their motion, but even if the Court were to ignore that failure, the documents Defendants submitted are not admissible for their purported purpose. In particular, Defendants cite the Section 5 Submission as support for many of their alleged undisputed facts. While that Submission might be admissible as evidence of the positions Virginia has taken or a source of its admissions, it is not evidence of the truth of factual assertions stated therein. For that purpose, the Submission is inadmissible hearsay, does not provide a foundation for many of the opinions it contains, and is not sufficient to create an undisputed issue of fact. Fed. R. Evid. 602, 702, 802.

---

<sup>2</sup> Ironically, while filing these motions on the one hand, Defendants on the other have sought an extension of the time within which to respond to Plaintiffs' straightforward discovery requests and have interposed instead "cut and paste" boilerplate objections, promising substantive responses at a future date.

With respect to Defendants' contentions relating to compactness, the Submission provides no explanation for how the compactness scores were calculated, and therefore, there is no foundation to support them. Even if there were, there is no basis for concluding that the compactness measures are "nearly identical" because Defendants have provided no means for measuring the difference between them.

12. Plaintiffs dispute Defendants' contention that CD 3 splits 14 localities, that this is a reduction from the 19 localities split by the former plan, that the new plan does not create any new splits, and that eight large localities are split. Defendants cite only the Section 5 Submission to support these allegations. As discussed, that Submission is not admissible to support these facts and Defendants stand bereft of any admissible evidence to support any of these propositions. Moreover, as Defendants acknowledge, the 2012 Plan splits a total of 17 localities. If Defendants contend that three of these should not be counted, they have presented no evidence in support, and Plaintiffs' expert, Dr. Michael McDonald, offers a different opinion. Intervenors' Br., Ex. O (Dkt. 39-15) at 8 ("McDonald Report"). Thus, it is a disputed issue of fact.

13. Plaintiffs dispute Defendants' contention that the 2012 Plan creates ten precinct splits, reduced from 26 under the former plan. Defendants cite only the Section 5 Submission to support these allegations. As discussed, that Submission is not admissible to support these facts. Moreover, as Defendants acknowledge, the 2012 Plan splits a total of 15 precincts in CD 3. If Defendants contend that five of these should not be counted, they have presented no evidence in support, and Dr. McDonald concludes otherwise. McDonald Report at 10.

15. Plaintiffs dispute Defendants' contention that the 2012 Plan retained 80 percent or more of the benchmark districts' core constituency population. Defendants cite only the

Section 5 Submission to support these allegations. As discussed, that Submission is not admissible to support these facts.

16. Plaintiffs dispute Defendants' contention that the 2012 Plan creates Congressional districts that align with one of the two major political parties and maintain the same political alignments as the previous plan. Defendants cite only the Section 5 Submission to support these allegations. As discussed, that Submission is not admissible to support these facts. In addition, Defendants provide no basis for the method chosen for their partisan predictions. Thus, the lack of foundation for Defendants' asserted facts are strong grounds for disputing them.

17. Plaintiffs dispute Defendants' contention that various factors affected the shape of CD 3 and that the current district has a certain percentage of Black residents. Defendants cite only the Section 5 Submission in support. As discussed, that Submission is not admissible to support these facts. Moreover, as Dr. McDonald explains in his Report, there are two distinct methods for calculating the number of Black residents in CD 3. McDonald Report at 12-13.

**B. INTERVENORS' MOTION FOR SUMMARY JUDGMENT: DISPUTED FACTS**

27. Plaintiffs dispute Intervenor's contention that the current CD 3 contains only slight variations from the version of CD 3 adopted in 1998. Intervenor cites the Complaint to support this fact, but the cited paragraph compares the current CD 3 to the 1991 and 2001 districts, not 1998. As the evidence discussed below demonstrates, the current composition of CD 3 is more similar to the unconstitutional district adopted in 1991 than the remedial District drawn in 1998. *See infra* at Sec. IV.B.3.

32. Plaintiffs dispute Intervenor's contention that the former CD 3 had a Black voting age population ("BVAP") of 53.1% and the current CD 3 has a BVAP of 56.3%. As Dr. McDonald's Report shows, there are different ways to count the number of Black residents based

on how individuals claiming multiple races are counted. McDonald Report at 12-13. The percentages of BVAP asserted by Intervenor are therefore not undisputed.

33. Plaintiffs dispute Intervenor's contention that DOJ granted preclearance of the 2012 Plan and that this means Virginia carried its burden to prove race was not the predominant purpose behind the current CD 3. Plaintiffs do not dispute that DOJ precleared the 2012 Plan, but for all of the reasons discussed herein, they contest Intervenor's conclusion of law that Virginia has carried its burden in this litigation.

41. Plaintiffs dispute Intervenor's contention that Plaintiffs concede that the General Assembly acted constitutionally when it adopted the 2012 Plan. As Plaintiffs have acknowledged, before *Shelby County*, Section 5 might have served as a compelling state interest justifying a state's race-based reapportionment. But even then, the General Assembly was still required to narrowly tailor its use of race. Plaintiffs have specifically alleged that the General Assembly's use of race was not narrowly tailored: "Even if there were a compelling state interest to create and maintain CD 3 with race as the predominant factor, CD 3 is not narrowly tailored to achieve that interest." Compl. ¶ 45. Intervenor has provided no facts to disprove this contention.<sup>3</sup>

43. Plaintiffs dispute Intervenor's contention that Plaintiffs claim that the General Assembly's purpose has been tainted and that a formerly constitutional plan is now

---

<sup>3</sup> Plaintiffs acknowledge counsel's response to the Court's question during the scheduling conference of December 6, 2013, concerning whether Plaintiffs claim that CD 3 was unconstitutional when enacted in 2012. In responding to that inquiry, counsel was focusing on the fact that prior to *Shelby County*, courts had recognized that Section 5 could serve as a compelling interest for race-based redistricting and that Section 5 therefore was likely a compelling interest for Virginia in 2012. Counsel neither emphasized nor retracted the allegations in the Complaint -- described in more detail below -- that Virginia's use of race in creating CD 3 was not narrowly tailored. That lack of tailoring existed at the time Virginia enacted the 2012 Plan.

unconstitutional. Plaintiffs claim that race was the predominant factor for CD 3 when it was created and, as described, that the General Assembly's use of race was not narrowly tailored.

48. Plaintiffs dispute Intervenor's contention that Plaintiffs seek statewide changes to multiple districts. As discussed herein, the brief cited by Intervenor to support this alleged fact does not support it.

49. Plaintiffs dispute Intervenor's contention that Plaintiffs have "refused" to submit a remedial map. For the reasons set forth below, Plaintiffs have no obligation to submit a remedial map and have not "refused" to do so.

51. Plaintiffs dispute Intervenor's contention that Dr. McDonald did not consider the Senate criteria or analyze whether race-neutral criteria explain those shifts. As Dr. McDonald's Report shows, he did consider the Senate criteria and possible reasons for the shape of CD 3. McDonald Report at 7-11.

52. Plaintiffs dispute Intervenor's contention that another three-judge court in the District of South Carolina rejected an indistinguishable opinion from Dr. McDonald. Dr. McDonald's opinion in the case cited by Intervenor was specific to South Carolina's redistricting efforts, including the history and specific districts of that state, and fundamentally different than the Report he prepared in this case. Dr. McDonald's Report in this case relies explicitly on the history of Virginia's CD 3, the *Moon v. Meadows* decision, and Virginia's demographic data, all of which are irrelevant to South Carolina's redrawing of districts. Thus, Dr. McDonald's report is clearly distinguishable from his report in the South Carolina case.

### **III. LEGAL STANDARD ON SUMMARY JUDGMENT**

Summary judgment "is appropriate only where there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." *Hunt v. Cromartie*, 526 U.S.

541, 549 (1999) (citing *Celotex Corp. v. Catrett*, 477 U.S. 317 (1986); *Anderson v. Liberty Lobby, Inc.*, 477 U.S. 242 (1986)). Thus, when considering summary judgment, the Court must “believe[]” the evidence submitted by the nonmoving party “and all justifiable inferences are to be drawn in [that party’s] favor.” *Id.* at 552 (quoting *Anderson*, 477 U.S. at 255).

Thus, in *Hunt v. Cromartie*, the Supreme Court reversed the district court’s decision granting summary judgment on a racial gerrymandering claim where both plaintiffs and defendants had submitted evidence on the key issue of whether the legislature “subordinated traditional race-neutral districting principles . . . to racial considerations.” *Id.* at 547. *See also id.* at 549, 552 (explaining that “[t]he legislature’s motivation is itself a factual question” and “[a]ll that can be said on the record before us is that motivation was in dispute”); *Prejean v. Foster*, 227 F.3d 504, 509 (5th Cir. 2000) (describing “[l]egislative motivation or intent” as “a paradigmatic fact question” and holding that “defendants are entitled to summary judgment only if there is no genuine question of material fact as to the intent” of the legislature in enacting plan alleged to be a racial gerrymander). In this case -- where there are genuine issues of material fact on the key issue of whether racial considerations predominated the 2012 reapportionment of CD 3 and Defendants and Intervenor have failed to demonstrate that they are entitled to judgment as a matter of law -- the Court must deny the motions for summary judgment.

#### IV. ARGUMENT

Plaintiffs respectfully submit that the motions for summary judgment should be denied. Despite the fact that discovery has barely begun, Plaintiffs have substantial evidence that CD 3 was a racial gerrymander. As described in detail below, the district’s bizarre shape, racial demographics, statements by the 2012 Plan’s architect, statements by the Commonwealth in its Section 5 Submission -- and even admissions by the parties in the summary judgment motions

themselves -- all support Plaintiffs' claim that the predominant factor that motivated the division of Virginia's citizens in drawing the boundaries of the current CD 3 was race. Based on the evidence, it is indeed an understatement to say that the disputed issues of material fact render summary judgment inapplicable.

Defendants and Intervenor have also failed to demonstrate that -- as a matter of law -- they are entitled to judgment under the standard that governs Plaintiffs' racial gerrymandering claim. Perhaps recognizing this, the motions for summary judgment rely heavily on cases that are inapposite, advocate legal standards that are inapplicable, and fail completely to demonstrate that Defendants and Intervenor are capable of carrying the burden that will almost certainly fall to them at trial under the well-established burden shifting framework applicable to racial gerrymandering claims. That standard requires Defendants to demonstrate -- once Plaintiffs have carried their initial burden of establishing that considerations of race predominated the reapportionment decision -- both that (1) there was a compelling governmental interest for the use of racial classifications, and (2) the district was narrowly tailored to achieve that interest.

Defendants and Intervenor contend that a desire to comply with Section 5 explains CD 3 and, notwithstanding the decision in *Shelby County*, continue to assert that Section 5 provides the compelling interest that excuses the General Assembly's admitted reliance on racial classifications. But, *even if* Section 5 were applicable, Defendants and Intervenor have failed to prove as a matter of law -- in accordance with their burden -- that Section 5 compelled the creation of CD 3 as drawn by the General Assembly. Indeed, their failure to even attempt an argument that CD 3 is narrowly tailored to the purportedly compelling interest of Section 5 defeats their claim for summary judgment.



**A. LEGAL STANDARD ON RACIAL GERRYMANDERING CLAIMS**

Plaintiffs challenging the constitutionality of a plan as a racial gerrymander bear the burden of proving that race was the “predominant factor” motivating the districting decision in question. *Miller v. Johnson*, 515 U.S. 900, 916 (1995). Once plaintiffs have made this showing, the burden then shifts to defendants to satisfy strict scrutiny by proving that: (1) the state had a compelling governmental interest in making the race-based districting decision; and (2) the decision was narrowly tailored to achieve that interest. *Bush v. Vera*, 517 U.S. 952, 976 (1996).

**B. DISPUTED ISSUES OF MATERIAL FACT ON WHETHER CONSIDERATIONS OF RACE PREDOMINATED PRECLUDE SUMMARY JUDGMENT**

“[R]eapportionment is one area in which appearances do matter,” *Shaw v. Reno* (“*Shaw I*”), 509 U.S. 630, 647 (1993), and Plaintiffs may demonstrate that a district is a racial gerrymander where the district has a “bizarre” or “irregular” shape and demographic data supports an inference that improper racial classifications predominated in the construction of that district. *See Miller*, 515 U.S. at 914. Plaintiffs may also support their claim with direct evidence of legislative motives, including admissions contained in the state’s Section 5 preclearance submissions. *Shaw v. Hunt* (“*Shaw II*”), 517 U.S. 899, 906 (1996); *Bush*, 517 U.S. at 970; *Clark v. Putnam Cnty.*, 293 F.3d 1261, 1272 (11th Cir. 2002).

Although discovery has just begun, the evidence collected to date is more than sufficient to satisfy Plaintiffs’ burden of proof and to defeat the motions for summary judgment. First, the bizarre shape of CD 3, along with its subjugation of traditional criteria and the way racial populations were traded among districts, all demonstrate that the General Assembly’s predominant concern was race. Second, CD 3 resembles the district found to be an unconstitutional racial gerrymander in *Moon v. Meadows*, 952 F. Supp. 1141 (E.D.Va.), *aff’d*, 521 U.S. 1113 (1997). Third, statements by legislators -- along with concessions on the record

from both Defendants and Intervenor -- demonstrate that race was the predominant purpose behind CD 3. Finally, Plaintiffs are awaiting responses to discovery requests from Defendants, Intervenor, and third parties who were involved in the reapportionment process, and it would be premature to find an absence of disputed material facts while this fact-gathering process is underway.

**1. CD 3 Is Bizarrely Shaped and Disregards Traditional Redistricting Criteria**

CD 3 is bizarre on its face. *Miller*, 515 U.S. at 913 (“Shape . . . may be persuasive circumstantial evidence that race for its own sake, and not other districting principles, was the legislature’s dominant and controlling rationale in drawing its district lines.”). The District starts north of Richmond and slides down the northern shore of the James River, ending abruptly at the border of James City. It then jumps over James City, which is part of CD 1, and lands in a horseshoe shape in Newport News. It then leaps over southern and eastern Newport News in CD 2 and stops in Hampton. The second half of CD 3 starts anew on the southern shore of the James River, first darting west to swallow Petersburg and then sliding east through Surry. It then hops over Isle of Wight, which is in CD 4, covers Portsmouth, and runs up into Norfolk, tearing CD 2 into different areas on either side of Norfolk. This bizarre shape is evidence that the General Assembly was primarily motivated by race when drawing CD 3. *See McDonald Report* at 3-5.

Its disregard of traditional redistricting criteria is strong evidence that race was the General Assembly’s predominant consideration in drawing CD 3. In particular, it paid little attention to compactness, contiguity, and political subdivision and precinct lines. *See Miller*, 515 U.S. at 915. CD 3 is the least compact Congressional district in Virginia, ranking last amongst all districts under the Reock, Polsby-Popper, and Schwartzberg Tests. *McDonald Report* at 7. CD 3 is also not contiguous over land. The lack of contiguity is particularly egregious in certain

places, such as Newport News and Hampton. The cities sit right next to each other on the North shore of the James River, but rather than connect them by land in one district, the General Assembly put portions of both cities in CD 3 and split them by running CD 2 right between them. *Id.* at 8. The General Assembly also wrapped CD 2 around Norfolk, further cutting off the portion of CD 3 on the South shore of the James River in Portsmouth from the portion on the North shore in Hampton. *Id.* at 8. CD 3 also splits more counties and cities than any other Congressional district in Virginia and contributes to most of the locality splits of its neighboring districts. *Id.* at 9. Finally, CD 3 splits more voting precincts than any of Virginia's other Congressional districts. *Id.* at 10. The 2012 Plan splits 20 voting precincts in all; CD 3 participates in 14 of them. *Id.* at 10. In sum, CD 3's tortured shape and disregard for traditional districting criteria demonstrate that race predominated in its creation.<sup>4</sup>

---

<sup>4</sup> Even if black letter summary judgment law did not require the Court to credit Plaintiffs' evidence and the reasonable inferences drawn from it (which it clearly does), *see Cromartie*, 526 U.S. at 552; *Greater Baltimore Ctr. for Pregnancy Concerns, Inc. v. Mayor & City Council of Baltimore*, 721 F.3d 264, 283 (4th Cir. 2013) ("It is elementary that, when a court considers a summary judgment motion, '[t]he evidence of the non-movant is to be believed, and all justifiable inferences are to be drawn in his favor.'") (quoting *Anderson*, 477 U.S. at 255), Defendants' self-serving assertions that traditional districting principles were not subordinated to considerations of race would be insufficient to rebut Plaintiffs' claim. *See, e.g., Putnam Cnty.*, 293 F.3d at 1270 ("The 'mere recitation' that traditional factors were not subordinated to race is insufficient to insulate the County's decision to maximize the black populations of [the challenged Districts].") (quoting *Miller*, 515 U.S. at 919). *See also id.* ("The fact that other considerations may have played a role . . . does not mean that race did not predominate. . . . If the line-drawing process is shown to have been infected by such a deliberate racial purpose, strict scrutiny cannot be avoided simply by demonstrating that the shape and location of the districts can rationally be explained by reference to some districting principle other than race, for the intentional classification of voters by race, though perhaps disguised, is still likely to reflect the impermissible racial stereotypes, illegitimate notions of racial inferiority and simple racial politics that strict scrutiny is designed to smoke out.") (internal quotation marks and citations omitted); *Bush*, 517 U.S. at 972-73 (rejecting testimony of legislators and staffers that non-racial considerations motivated reapportionment); *Prejean*, 227 F.3d at 510 (reversing grant of summary judgment where lower court credited affidavit of judge that drew the challenged plan averring that race did not predominate over traditional districting principles).

**2. The Manner in Which the General Assembly Drew CD 3 Also Shows That Race Was the Predominant Purpose Behind the Plan**

Virginia drew CD 3 to increase its concentration of Black voting age residents. At the time of the 2010 census, former CD 3 had 53.1% or 53.9% BVAP, (depending on how people claiming to have multiple races are counted). McDonald Report at 14. Under the current plan, the Black population in CD 3 increased to 56.3% or 57.2% of the voting age population. *Id.*

Moreover, although CD 3 needed to gain population to meet equal population requirements, the General Assembly engaged in a complicated scheme of strategically moving certain population *out* of the prior version of CD 3, trading lower density BVAP communities for higher density BVAP communities in the surrounding districts. McDonald Report at 15-25. The net effect of these trades is that over 90% of the voting age population added to CD 3 in 2012 is Black. *Id.* at 25.

**3. The Current CD 3 Has a Similar Composition to the District Held Unconstitutional in *Moon v. Meadows***

The CD 3 adopted by the General Assembly in 2012 also closely resembles the 1991 district held unconstitutional in *Moon v. Meadows*. Following the 1990 census, Virginia made CD 3 its first majority-Black Congressional district. The District had a total Black population of 63.98% and BVAP of 61.17%. Roche Decl. ¶ 4, Ex. C at 23. The District also included many of the communities found in the current CD 3, including Richmond, Petersburg, Newport News, Hampton, Portsmouth, and Norfolk. McDonald Report at 6. In 1998, a three-judge panel of this Court held that CD 3 was the result of unconstitutional racial gerrymandering. *Moon*, 952 F. Supp. at 1150. The General Assembly then drew a new district, which had a Black population of

53.59% and a BVAP of 50.47%. Roche Decl. ¶ 5, Ex. D at 22.<sup>5</sup> It achieved this result in part by returning Portsmouth, Suffolk, Hopewell, and Petersburg to CD 4. *Id.* at 20.

The 2012 version of CD 3 has a composition more similar to the unconstitutional district than the remedial one. In 1991, CD 3 had a total Black population of 63.98% and a BVAP of 61.17%, compared to 59.5% and 56.3% in 2012, and 53.49% and 50.47% in 1998. Thus, the concentration of Black residents is closer to the concentration under the unconstitutional plan. Also, in 2012, the General Assembly returned communities to CD 3 that had been removed under the remedial plan, most notably large portions of Petersburg. Thus, the General Assembly's decision to draw CD 3 with a similar composition to the district previously held unconstitutional is further evidence that CD 3's shape is primarily the result of racial gerrymandering.

Moreover, the factors that led the court to find CD 3 unconstitutional in 1998 require the same result here. In *Moon*, the court held that “[e]vidence of legislative intent, the bizarre shape of the district, and the subordination of traditional districting principles demonstrate that the Commonwealth intentionally drew [CD 3's] boundary lines” for racial purposes. 952 F. Supp. at 1146. In particular, the court relied on comments from the General Assembly and evidence that Black residents were moved into the district while non-Black residents were removed. *Id.* The court also found that CD 3's bizarre shape was evidence of the General Assembly's unconstitutional purpose. Finally, the court found that the splitting of localities and lack of compactness and contiguity were evidence that traditional redistricting criteria had been subordinated to race. The current CD 3 suffers from the same failings, and like the unconstitutional district, the shape of the current district was motivated primarily by race.

---

<sup>5</sup> The court never specifically approved the remedial map as a constitutional fix for the racial gerrymander.

**4. Statements By Legislators and Parties Here Prove That Race Was the Predominant Purpose Behind CD 3**

Finally, statements made by the map-drawers themselves -- and even Defendants and Intervenor -- drive home that race predominated the drawing of CD 3. All of these entities have claimed that the District was drawn with the primary goal of satisfying Section 5 standards. Thus, the General Assembly's declared intention to comply with Section 5 was in truth an effort to establish a certain racial composition of CD 3. Because the General Assembly's purported commitment to comply with Section 5 was obviously a commitment to reapportion with race as the predominant purpose, all of the General Assembly's statements regarding the priority of complying with the VRA support the conclusion that racial considerations drove Virginia's reapportionment efforts and that Plaintiffs have met their initial burden in this case.

**a. Statements by the Map's Author**

The author of the 2012 Plan made clear that the predominant concern in drawing CD 3 was the District's concentration of Black residents. On April 6, 2011, Del. Janis introduced HB5004, the legislation that would become the 2012 Plan. Roche Decl. ¶ 6, Ex. E at 7. The House of Delegates immediately sent the bill to the Committee on Privileges and Elections, and within a week, Del. Janis returned HB5004 to the floor of the House. There, he declared that when he drew the Plan's districts, he "was most especially focused on making sure that [CD 3] did not retrogress in its minority voting influence." Roche Decl. ¶ 7, Ex F at 14:40-15:13. He further stated that "one of the paramount concerns in the drafting of the bill was the constitutional and federal law mandate under the [VRA] that we not retrogress minority voting influence in [CD 3]." *Id.* at 9:30-10:25. Thus, Del. Janis explicitly avowed that maintaining a certain percentage of Black voting age residents in CD 3 was his primary purpose.

Del. Janis stated openly that he drew CD 3 by looking

at the census data as to the current percentage of voting age African American population in [CD 3] and what that percentage would be in the proposed lines to ensure that the new lines that were drawn for [CD 3] . . . would not have less percentage of voting age African American population under the proposed lines in 5004 that exist under the current lines under the current Congressional District.

*Id.* at 9:30-10:25. In other words, Del. Janis drew CD 3 by comparing the former CD 3's BVAP percentage with the BVAP percentage in other possible plans. Although Del. Janis stated that he took into account other criteria such as equal population and the preferences of Members of Congress, he was clear that "*the primary focus* of how the lines in HB 5004 were drawn" was race-based. *Id.* at 24:57-25:55 (emphasis added). In his presentation to the House Committee on Privileges and Elections on April 7, 2011, Del. Janis described this focus on race as one of his two top priorities, the other being population equality. Roche Decl. ¶ 8, Ex. G at 3.

Thus, the author of the 2012 Plan explicitly and repeatedly stated that the predominant purpose behind the shape and composition of CD 3 was race. The General Assembly turned Del. Janis's purpose into law when it passed his plan on January 20, 2012. Roche Decl. ¶ 3, Ex. B. That alone is sufficient to carry Plaintiffs' burden.

#### **b. Senate Redistricting Criteria**

On March 25, 2011, the Senate Committee on Privileges and Elections adopted guidelines establishing the criteria for drawing congressional districts. *See* Intervenor's Br., Ex. K (Dkt. 39-11) at 1 ("Senate Guidelines"). Both Defendants and Intervenor's rely on the Senate Guidelines in their motions. *See, e.g.,* Defs.' Br. 3-4 (Dkt. #37); Intervenor's Br. 28 (Dkt. #39). But the Guidelines, if anything, mitigate in favor of a finding that race was the predominant purpose behind CD 3, and especially so when viewed in the light most favorable to Plaintiffs.

As an initial matter, the Senate that adopted the Guidelines is not the Senate that approved the 2012 Plan. Rather, the 2011 Democratic-led Senate approved an entirely different congressional plan -- with an entirely different configuration of CD 3. Roche Decl. ¶ 6, Ex. E at 7-8. Defendants' and Intervenor's suggestions that the 2012 General Assembly relied on or applied these Guidelines is not supported by the record evidence.

In any event, the Senate Guidelines confirm that racial concerns took priority over other traditional districting considerations. They identify equal population and compliance with Section 5 as the Senate's top two Congressional criteria. *See* Senate Guidelines at 1. The Guidelines identify other criteria for consideration, including contiguity, compactness, single-member districts, and communities of interest, but state unequivocally that "population equality among districts and compliance with . . . the [VRA] shall be given priority in the event of a conflict among the criteria." *Id.* Thus, considerations of race were of paramount importance, elevated above all other criteria, save the federal constitutional requirement of equal population.

**c. Defendants' and Intervenor's Concessions**

Finally, both Defendants and Intervenor concede that the General Assembly's primary motivation in CD 3 was to separate voters based on race, purportedly in service of Section 5 obligations. Defendants concede that, by focusing on compliance with Section 5, they are necessarily stating an intention "to consider race"; that "there are points in the drawing of the district *where race must predominate*" to comply with the VRA; and that, in 2012, Virginia elevated compliance with Section 5 over traditional redistricting criteria. Defs.' Br. 9, 10, 11 (emphasis in original). Similarly, Intervenor professes that "compliance with Section 5 was the General Assembly's predominant purpose or compelling interest underlying [CD] 3's racial



composition in 2012,” and contend that the General Assembly believed “it had to be maintained as a majority-black district.” Intervenor’s Br. 15, 17.

In short, in prematurely moving for summary judgment, Defendants and Intervenor’s have bolstered Plaintiff’s case: racial purpose predominated in the General Assembly’s drawing of CD 3. Now, the burden shifts to Defendants to prove -- on strict scrutiny no less -- that this “presumptively unconstitutional race-based districting” was justified. *Miller*, 515 U.S. at 927.

**C. DEFENDANTS HAVE FAILED TO DEMONSTRATE THAT THE GENERAL ASSEMBLY’S USE OF RACE AS THE PREDOMINANT FACTOR WAS JUSTIFIED AS A MATTER OF LAW**

Defendants and Intervenor’s completely misconstrue the nature of the burdens in this litigation. Plaintiff’s need not prove that the General Assembly was motivated by the “illegitimate,” “improper,” or “unconstitutional” use of race. Intervenor’s Br. 1, 12, 13, 15. Plaintiff’s need only demonstrate that considerations of race predominated in drawing CD 3; *Defendants* bear the burden of satisfying the demanding strict scrutiny standard to prove that the “presumptively unconstitutional” predominant use of race was legitimate. *Miller*, 515 U.S. at 927.

Defendants’ and Intervenor’s argument in this respect essentially assumes that Plaintiff’s have met their burden of proving race as a predominant factor. Defendants contend, however, that they would prevail on strict scrutiny because, at the time of enactment, Virginia was a covered jurisdiction under Section 5, and *Shelby County* has no bearing on the compelling interest inquiry. This argument, however, ignores the fact that a change in the constitutional landscape may vitiate the compelling state interest Virginia may have claimed under prior law. The motions also ignore altogether the second prong of the strict scrutiny burden -- namely, that CD 3 was narrowly tailored to achieve Section 5 compliance. Thus, even assuming that Section

5 *could* qualify as a compelling interest under the circumstances at issue here, Defendants’ and Intervenor’s complete failure to establish that CD 3 is narrowly tailored to satisfy that interest necessarily defeats their claim for summary judgment.

# **1. Virginia Can Assert No Compelling Interest in Section 5**

Section 5 mandates that certain “covered” jurisdictions obtain preclearance from DOJ or the U.S. District Court for the District of Columbia before changing any voting-related “standard, practice, or procedure.” 42 U.S.C. § 1973c. When the 2012 Plan was enacted, Virginia was a “covered” jurisdiction under Section 5. On June 25, 2013, however, the Supreme Court held that the coverage formula provided in Section 4(b) of the VRA is unconstitutional. *Shelby Cnty.*, 570 U.S. \_\_\_, 133 S. Ct. 2612 (2013).<sup>6</sup> While Plaintiffs lament the *Shelby County* decision and support legislative efforts to restore application of the VRA’s preclearance requirements, the current state of the law is that Virginia is no longer “covered” under Section 5. As a result, Defendants simply cannot, as a matter of well-settled law, rely on compliance with that provision as a compelling state interest.

Defendants’ and Intervenor’s vehement argument that *Shelby County* has no effect on the constitutionality of CD 3 is belied by their failure to cite any case law to that effect. Indeed, Defendants’ argument on this point is limited to two paragraphs, without any case cite whatsoever, arguing simply that it is “dispositive” that Virginia was required to comply with Section 5 when it redrew the boundaries of CD 3. Defs.’ Br. 13. Intervenor, meanwhile, rely

---

<sup>6</sup> Intervenor mistakenly assert that “five Justices invalidated Section 5 in 2013.” Intervenor’s Br. 2. In fact, the Court expressly stated: “We issue no holding on § 5 itself, only on the coverage formula. Congress may draft another formula based on current conditions.” 133 S. Ct. at 2631.

simply upon the “self-evident truism that a constitutional law cannot be struck down as unconstitutional.” Intervenor’s Br. 14.

Defendants’ and Intervenor’s unsupported assumption that the compelling interest inquiry ends as of enactment of a districting plan, however, ignores the well-established case law holding that changes in the legal landscape can render a law unconstitutional even if it would have survived strict scrutiny at some point in the past.

**a. A Court May Order Mid-Decennial Redistricting in Light of Intervening Supreme Court Decisions**

In *Reynolds v. Sims*, 377 U.S. 533, 579 (1964), the Supreme Court read the Equal Protection Clause to impose the one-person, one-vote rule on state legislative reapportionment, holding that “the overriding objective must be substantial equality of population among the various districts, so that the vote of any citizen is approximately equal in weight to that of any other citizen in the State.” The Court refined this “substantial equality” standard in a deluge of redistricting cases decided on the heels of *Reynolds*. See, e.g., *Kirkpatrick v. Preisler*, 394 U.S. 526 (1969); *Wells v. Rockefeller*, 394 U.S. 542 (1969); *Swann v. Adams*, 385 U.S. 440 (1967).

In *Whitcomb v. Chavis*, 403 U.S. 124, 162-63 (1971), the Court affirmed an order requiring the Indiana General Assembly to redistrict based on population inequalities. The Court flatly rejected the State’s argument that a federal court had already approved the districting scheme in 1965 and it could not be compelled to redistrict again before the next census:

Here, the District Court did not order reapportionment as a result of population shifts since the 1965 *Stout* decision, but only because the disparities among districts which were thought to be permissible at the time of that decision had been shown by intervening decisions of this Court to be excessive.

*Id.* at 163. Thus, while a court may not order mid-decennial redistricting based on population shifts alone, , redistricting may be required when “intervening decisions of [the Supreme] Court”

establish that a current plan is no longer valid. *Id. See also Jackson v. DeSoto Parish Sch. Bd.*, 585 F.2d 726, 729 (5th Cir. 1978) (“A challenge to the constitutionality of a court-ordered reapportionment plan is not . . . precluded by principles of res judicata or collateral estoppel. It has long been established that res judicata is no defense where, between the first and second suits, there has been an intervening change in the law or modification of significant facts creating new legal conditions. . . . This court has thus been unwilling to bar subsequent challenges to reapportionment schemes, seemingly constitutional when instituted by the court, but apparently inadequate under the rapidly changing jurisprudence in this area.”); *accord Moch v. East Baton Rouge Parish Sch. Bd.*, 548 F.2d 594, 598 (5th Cir. 1977).

*Shelby County* undoubtedly qualifies as a significant change in the law following the 2012 Plan’s enactment. This intervening decision undermines Virginia’s reliance on Section 5 as a compelling interest for its race-based districting decision and requires the Court to determine the merits of Plaintiffs’ claim accordingly.

**b. Under the First Amendment, a Law Fails Strict Scrutiny Where an Intervening Supreme Court Decision Finds the Interest Asserted No Longer Compelling**

Federal courts’ campaign finance jurisprudence provides, by analogy, additional support for this dynamic conception of strict scrutiny. Under the First Amendment, strict scrutiny applies to laws that burden pure speech, such as limitations on campaign expenditures. *See Citizens United v. FEC*, 558 U.S. 310, 340 (2010). The standard is the same as under the Equal Protection Clause: a law can survive strict scrutiny if it “furthers a compelling interest and is narrowly tailored to achieve that interest.” *FEC v. Wis. Right to Life, Inc.*, 551 U.S. 449, 464 (2007). Where a law only indirectly burdens speech (e.g., limits on contributions rather than expenditures), the Court applies heightened scrutiny, asking whether it is “‘closely drawn’ to

serve a ‘sufficiently important interest.’” *Davis v. FEC*, 554 U.S. 724, 740, n.7 (2008) (quoting *McConnell v. FEC*, 540 U.S. 93, 136 (2003), *overruled on other grounds by Citizens United*, 558 U.S. 310).

*Citizens United* struck down a provision of the Federal Election Campaign Act (“FECA”) that barred corporations and unions from making independent expenditures for certain political ads. *See* 558 U.S. at 365-66. The Court held that the ban was not justified by the government’s asserted interests in, among others, (1) preventing corruption or the appearance of corruption in the form of buying “influence over or access to elected officials,” (i.e., non-*quid pro quo* corruption), *id.* at 359, and (2) preventing aggregations of wealth from drowning out the speech of others (the “antidistortion” interest). In so holding, the Court overruled two prior decisions that had recognized these interests as compelling. *Id.* at 365.

Shortly after *Citizens United*, two circuits found that that decision vitiated these two interests as applied outside the expenditure context—specifically, to laws limiting *contributions* to independent groups. In *SpeechNow.org v. FEC*, 599 F.3d 686 (D.C. Cir. 2010), the D.C. Circuit invalidated FECA’s contribution limits as applied to certain independent political associations. The unanimous en banc court reasoned, “Given this precedent [of *Citizens United*], the only interest we may evaluate to determine whether the government can justify contribution limits . . . is the government’s anticorruption interest.” *Id.* at 692. The Court found the *quid pro quo* corruption interest inapplicable to contributions to independent groups.

Likewise, in *Long Beach Area Chamber of Commerce v. City of Long Beach*, 603 F.3d 684 (9th Cir. 2010), the Ninth Circuit invalidated a city ordinance limiting contributions to “any person” making independent expenditures supporting or opposing a candidate. The court rejected the city’s asserted anti-distortion rationale, noting that “the Supreme Court has overruled

*Austin* and explicitly rejected the ‘anti-distortion rationale’ upon which it rested.” *Id.* at 693.

The court also rejected reliance on the “broader definition of ‘corruption,’” noting that *Citizens United* cabined that interest to apply only to *quid pro quo* corruption. *Id.* at 695 n.5.

*Citizens United* and its aftermath illustrate the dynamic quality of strict scrutiny: At Time 1, the government enacts measures advancing interests that qualify as compelling under the governing law. At Time 2, the Supreme Court overrules the governing law, rendering the interests non-compelling. At Time 3, courts strike down the measures because they no longer advance compelling interests. Based on this analogous authority, Defendants’ and Intervenor’s unsupported assertion that *Shelby County* cannot undo a state’s compelling interest fails as a matter of law.

**c. Intervenor’s Mischaracterize Plaintiffs’ Claim**

Intervenor’s grossly mischaracterize the basis of Plaintiffs’ racial gerrymandering claim and, as a result, their attempt to defeat that claim wanders far afield.

First, Intervenor’s incorrectly suggest that Plaintiffs’ claim is one of discriminatory intent. Intervenor’s Br. 11, 17-18. But Plaintiffs need not allege or prove that the General Assembly was motivated by a desire to disadvantage minority voters:

*Shaw* recognized a claim analytically distinct from a vote dilution claim. Whereas a vote dilution claim alleges that the State has enacted a particular voting scheme as a purposeful device to minimize or cancel out the voting potential of racial or ethnic minorities, an action disadvantaging voters of a particular race, the essence of the equal protection claim recognized in *Shaw* is that the State has used race as a basis for separating voters into districts.

*Miller*, 515 U.S. at 911 (internal quotation marks and citations omitted). Plaintiffs need only show “that race was the predominant factor motivating the legislature’s decision to place a

significant number of voters within or without a particular district.” *Id.* at 916. Thus, the General Assembly’s purported intent to comply with Section 5 can form the basis of a racial gerrymander.

Second, Intervenor’s miss the mark by arguing that *Shelby County* could not have “influenced the legislature’s purpose *when* it acted.” Intervenor’s Br. 14 (emphasis in original). Plaintiffs do not contend that *Shelby County* changed or even informed the General Assembly’s actual motivation for adopting CD 3 in 2012. Rather, Plaintiffs contend that, as a result of *Shelby County*, Defendants may no longer rely on Section 5 as a compelling interest justifying their admitted purpose in 2012: to divide voters between CD 3 and other districts based on racial grounds. In other words, Virginia’s motive has not changed, but the constitutionality of its actions has.

Intervenor’s misunderstanding is laid bare in a single sentence of their brief: “Since this action complied with the Constitution because it was motivated by the *non-racial -- indeed, compelling -- purpose of Section 5 compliance*, the redistricting law does not constitute a constitutional violation and therefore cannot be altered or overturned by a federal court.” Intervenor’s Br. 14 (emphasis added). Intervenor’s fail to recognize that a state’s manipulation of minority populations in purported compliance with Section 5 is, *by definition*, a racial purpose. The burden Defendants (and Intervenor’s) bear is to prove that Virginia can continue to rely on Section 5 in the face of *Shelby County* to justify its predominant use of race to draw CD 3. Intervenor’s argument that the General Assembly’s original motivation has not changed is, therefore, of no moment.

In short, Intervenor’s have initiated summary judgment proceedings against the wrong case. Intervenor’s may not imagine a legal theory that finds no basis in Plaintiffs’ pleadings and

then seek summary judgment on their manufactured argument. For this reason alone, summary judgment is inappropriate here.

## **2. Defendants and Intervenors Have Failed to Carry Their Burden**

But even if Section 5 remains a compelling interest, there is another legal reason for denying the motions -- Defendants have not even attempted to show that they can satisfy their burden to prove that CD 3 was narrowly tailored to achieve that interest. *Shaw II*, 517 U.S. at 908; *Miller*, 515 U.S. at 920; *Bush*, 517 U.S. at 976.

Intervenors improperly base their motion on Plaintiffs' alleged "concession" that the General Assembly "acted constitutionally when it enacted the current congressional district map." Intervenors' Br. 1. It is true that the Supreme Court has assumed, without deciding, that VRA compliance *can* be a compelling state interest. *Bush*, 517 U.S. at 977. And it is true that if *Shelby County* did not undermine Virginia's reliance on Section 5, Section 5 could in fact be a compelling interest. But Plaintiffs do not concede that the 2012 Plan is constitutional. On the contrary, Plaintiffs' Complaint specifically alleges: "Even if there were a compelling state interest to create and maintain [CD 3] with race as the predominant factor, [CD 3] is not narrowly tailored to achieve that interest." Compl. ¶ 45.

The Supreme Court has explicitly rejected the contention that a state can justify its race-based redistricting by simply averring to the need for VRA compliance. *Miller*, 515 U.S. at 922. Instead, it has held that:

When a state governmental entity seeks to justify race-based remedies to cure the effects of past discrimination, we do not accept the government's mere assertion that the remedial action is required. Rather, we insist on a strong basis in evidence of the harm being remedied.



*Id.* Nor does VRA compliance necessarily shield a plan from challenge. *Shaw I*, 509 U.S. at 654 (“[T]he Voting Rights Act and our case law makes clear that a reapportionment plan that satisfies § 5 still may be enjoined as unconstitutional.”). In fact, the Court has consistently struck down plans that were not narrowly tailored to achieve VRA compliance. *See, e.g., Bush*, 517 U.S. at 983 (finding Texas “went beyond what was reasonably necessary to avoid retrogression”) (internal quotation marks and citation omitted); *Shaw II*, 517 U.S. at 910-18 (concluding that districts were not narrowly tailored to comply with the VRA); *see also Miller*, 515 U.S. at 921 (rejecting districts as unconstitutional where not required under a correct reading of the VRA).

Thus, *even if* Defendants could show that CD 3 was drawn to comply with Section 5 -- and this Court determined that was and remains a valid compelling interest for subjugating traditional redistricting criteria to considerations of race -- Defendants must show that the General Assembly did not go “beyond what was reasonably necessary” to achieve that compliance to defeat Plaintiffs’ racial gerrymandering claim. *Bush*, 517 U.S. at 983. But neither motion even attempts to make this showing. Instead, Defendants merely assert that the 2012 plan “complied with the requirements of Section 5 by maintaining Virginia’s only majority-minority district” and “further ensured that [Virginia] did not retrogress under Section 5 by retaining minority strength in the redrawn [CD 3] comparable to the minority strength of the previous [CD 3].” Defs.’ Br. 12-13; *see also* Intervenor’s Br. 17 (“[CD] 3 indisputably satisfies *Shaw* because the General Assembly had a strong basis in evidence to conclude that it had to be maintained as a majority-black district.”). They offer no expert testimony to demonstrate that any BVAP less than 56.3% would have led to “retrogression in the position of racial minorities with respect to their effective exercise of the electoral franchise.” *Beer*, 425 U.S. at 141. They point to no evidence that the General Assembly even analyzed (let alone retained an expert to analyze) how

high the BVAP of CD 3 must be to provide minorities an ability to elect their candidates of choice. Indeed, they make no effort to explain why they believe Section 5 required the General Assembly to *increase* the BVAP in CD 3 by over three percentage points. *See Moon*, 952 F. Supp. at 1150 (“There is simply no evidence that the Legislature took any steps to narrowly tailor [CD 3], nor has it produced enough evidence of a compelling government interest.”). *Cf. Prejean*, 227 F.3d at 518 (“Narrow tailoring demands an explanation that the district chosen entails the least race-conscious measure needed to remedy a violation.”). Nor do Defendants make any effort to defend CD 3 as justified by compliance with Section 2 of the VRA, much less demonstrate that the General Assembly had a “strong basis in evidence” for concluding that race-based redistricting was necessary and that CD 3 did not “subordinate traditional districting principles to race substantially more than is ‘reasonably necessary’ to avoid” liability, as required by the case law. *Bush*, 517 U.S. at 979. *See also Miller*, 515 U.S. at 921-22.

In sum, because Defendants and Intervenor have not even attempted to satisfy their burden to demonstrate narrow tailoring, summary judgment must be denied.

#### **D. PLAINTIFFS NEED NOT PROVIDE AN ALTERNATIVE MAP AT THIS STAGE**

As Plaintiffs previously explained in their reply brief on the question of available remedies, Intervenor’s assertion that Plaintiffs are required to submit an alternative map at this stage confuses Plaintiffs’ claims of racial gerrymandering with a claim brought under Section 2 of the VRA. Pls.’ Remedy Reply Br. 2 (Dkt. #34). Again, Plaintiffs do not make a Section 2 claim -- they allege that CD 3 was an unconstitutional racial gerrymander and the cases that govern Plaintiffs’ burden do not require Plaintiffs to adduce an alternative map to succeed. Plaintiffs need only demonstrate that racial considerations predominated the General Assembly’s reapportionment of CD 3. Once Plaintiffs demonstrate their ability to make this showing --

which, based on the evidence summarized, they clearly have done -- the burden shifts to Defendants to satisfy strict scrutiny by demonstrating that (1) Virginia had a compelling interest in using race as a predominant factor, and (2) the use of race was narrowly tailored to meet that interest. *Bush*, 517 U.S. at 976.

None of the cases cited by Intervenor in either their remedy brief or their summary judgment motion actually support their argument that, to succeed on their racial gerrymander claim, Plaintiffs must offer an alternative map. To the contrary, in *Miller*, the Court affirmed the lower court's conclusion that plaintiffs had successfully carried their burden and demonstrated that the challenged district was a racial gerrymander based on (1) the shape of the district, (2) relevant racial demographics, and (3) evidence of motivation from pre-clearance documents -- *not* on any alternative map proffered by the plaintiffs. 515 U.S. at 917-19.

Moreover, Intervenor's argument in this regard seems to assume that, if the 2012 Plan was drawn to comply with Section 5 or was precleared by DOJ, Plaintiffs cannot succeed on their claim. *See* Intervenor's Br. 21 ("Plaintiffs do not point to an alternative plan that . . . comports with Plaintiffs' notion of constitutional requirements . . . presumably because *all* such plans were drawn to comply with Section 5. [DOJ], moreover exhaustively examined all of those plans . . . and it determined . . . that the Enacted Plan was free of any discriminatory purpose.") (emphasis in original) (internal citations and quotation marks omitted).

But that is not the law. Indeed, virtually every racial gerrymandering case involves a plan that was pre-cleared by DOJ. *See, e.g., Miller*, 515 U.S. at 909, 918; *Moon*, 952 F. Supp. at 1144. That's hardly surprising, given that DOJ considered a different question in preclearance than courts tasked with determining whether a plan or district is an unconstitutional racial gerrymander. Pre-clearance asked specifically whether a proposed change to a covered

jurisdiction's voting laws had a "discriminatory purpose," 42 U.S.C. 1973c(c); a racial gerrymandering claim considers whether the legislature subordinated traditional districting standards to impermissible racial considerations. Defendants' efforts to conflate the two inquiries should be rejected.

Intervenors' assertion that "Plaintiffs seek to mount an attack on virtually *all* districts," Intervenors' Br. 23 (emphasis in original), is similarly untethered to reality. Intervenors cite the section of Plaintiffs' reply brief discussing available remedies that directly responded to Intervenors' reliance on *Upham v. Seamon*, 456 U.S. 37 (1982), and clarified that there is the "potential" that the impact could be "more wide reaching" than CD 3, making *Upham* inapplicable. Pls.' Remedy Reply 12. Intervenors' apparent hysteria in response is unwarranted and makes too much of this discussion. Finally, Intervenors' assertion that "Plaintiffs have provided no clue" as to which districts could be affected by a finding that CD 3 was racially gerrymandered is inaccurate. Dr. McDonald's expert report discusses in detail the population exchanges with neighboring districts that the General Assembly made to unconstitutionally maximize the Black population in the current CD 3. *See McDonald Report* at 12-25.

## **V. CONCLUSION**

For all of the foregoing reasons, the Court should deny Defendants' and Intervenors' Motions for Summary Judgment.

Dated: December 31, 2013

Respectfully submitted,

By /s/

John K. Roche (VSB# 68594)  
Marc Erik Elias (admitted *pro hac vice*)  
John Devaney (admitted *pro hac vice*)  
Perkins Coie, LLP  
700 13th St. N.W., Suite 600  
Washington, D.C. 20005-3960  
Phone: (202) 434-1627  
Fax: (202) 654-9106  
Email: JRoche@perkinscoie.com  
Email: MElias@perkinscoie.com  
Email: JDevaney@perkinscoie.com

Kevin J. Hamilton (admitted *pro hac vice*)  
Perkins Coie, LLP  
1201 Third Avenue, Ste. 4800  
Seattle, WA 98101-3099  
Phone: (206) 359-8000  
Fax: (206) 359-9000  
Email: KHamilton@perkinscoie.com

*Attorneys for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 31st day of December, 2013, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following:

Mike Melis  
Office of the Attorney General  
900 East Main Street  
Richmond, Virginia 23219  
(804) 786-2071  
Fax: (804) 786-1991  
mmelis@oag.state.va.us

*Attorneys for Defendants Charlie Judd,  
Kimberly Bowers, and Don Palmer in their  
official capacities*

Jonathan Andrew Berry  
Jones Day  
51 Louisiana Ave NW  
Washington, DC 20001  
202-879-3939  
Fax: 202-626-1700  
jberry@jonesday.com

John Matthew Gore  
Jones Day  
51 Louisiana Ave NW  
Washington, DC 20001  
(202) 879-3930  
Fax: (202) 626-1700  
jmgore@jonesday.com

Michael Anthony Carvin  
Jones Day  
51 Louisiana Ave NW  
Washington, DC 20001  
(202) 879-3939  
macarvin@jonesday.com

*Attorneys for Intervenor-Defendant Virginia  
Representatives*

Respectfully submitted,

By           /s/                                  
John K. Roche (VA Bar No. 68594)  
Perkins Coie, LLP  
700 13th St., N.W., Suite 600  
Washington, D.C. 20005-3960  
Phone: (202) 434-1627  
Fax: (202) 654-9106  
JRoche@perkinscoie.com

*Attorneys for Plaintiffs*

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

DAWN CURRY PAGE, et al,

Plaintiffs,

v.

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,

Defendants,

v.

CONGRESSMEN ERIC CANTOR,  
ROBERT WITTMAN, BOB GOODLATTE,  
FRANK R. WOLF, RANDY FORBES,  
MORGAN GRIFFITH, SCOTT RIGELL,  
and ROBERT HURT

Intervenor-Defendants.

Civil Action No. 3:13-cv-678-REP-LO-AKD

**DECLARATION OF JOHN K. ROCHE**

I, John K. Roche, state that I have personal knowledge of the matters set forth in this declaration and, if sworn as a witness, would testify as follows:

1. I am counsel at the firm of Perkins Coie LLP and admitted to practice in the Eastern District of Virginia.

2. A true and correct copy of the document titled "House of Delegates Privileges and Elections Committee Public Hearing in Re: Redistricting," dated January 11, 2012,



has been attached as **Exhibit A**. This document was produced by the Virginia Division of Legislative Services in response to a public records request.

3. A true and correct copy of the document titled “2012 Session: HB 251 Congressional districts; changes in boundaries” has been attached as **Exhibit B**. This document was copied from Virginia’s Legislative Information System website, specifically <http://lis.virginia.gov/cgi-bin/legp604.exe?ses=121&typ=bil&val=hb251>.

4. A true and correct copy of the document excerpt titled “Submission under Section 5 of the Voting Rights Act: Ch. 6, 1991 Va. Acts (Special Session II), Redistricting U.S. Congressional Seats Allocated to Virginia,” dated December 20, 1991, has been attached as **Exhibit C**. This document was produced by the Virginia Division of Legislative Services in response to a public records request.

5. A true and correct copy of excerpts of the “Submission under Section 5 of the Voting Rights Act, Ch. 1, 1998 Va. Acts, Redistricting U.S. Congressional Seats,” dated February 13, 1998, has been attached as **Exhibit D**. This document was produced by the Virginia Division of Legislative Services in response to a public records request.

6. A true and correct copy of the document titled “Legislative History of 2012 Virginia Congressional District Plan” has been attached as **Exhibit E**. This document was copied from the Virginia Division of Legislative Service’s redistricting website, specifically [http://redistricting.dls.virginia.gov/2010/Data/Ref/DOJSubmission2012/Attachment\\_17\\_cong.pdf](http://redistricting.dls.virginia.gov/2010/Data/Ref/DOJSubmission2012/Attachment_17_cong.pdf).

7. **Exhibit F** is a true and correct copy of the video of the floor session for the Virginia House of Delegates held on April 12, 2011. Exhibit F also contains transcriptions of certain statements made by legislators during the April 12 session. The videos were

produced by the Clerk of the House of Delegates in response to public records requests. I am informed and believe the transcription of the quoted portions of the videos is accurate.

Copies of the video are being served on each Judge's chambers and counsel for Defendants and Intervenors. The e-filed version of the exhibit is a copy of the cover of the DVD that is being served, together with the transcriptions.

8. A true and correct copy of the document titled "The Committee on Privileges and Elections Public Meeting," dated April 11, 2011, has been attached as **Exhibit G**. This document was copied from the Virginia Division of Legislative Service's redistricting website, specifically

[http://redistricting.dls.virginia.gov/2010/Data/Public%20Hearings/House/041111\\_HouseP&E\\_mtg\\_transcript.pdf](http://redistricting.dls.virginia.gov/2010/Data/Public%20Hearings/House/041111_HouseP&E_mtg_transcript.pdf).

**I declare under penalty of perjury that the foregoing statements are true and correct.**

Executed this 31st day of December, 2013, at Washington D.C.

/s/  
John K. Roche (VSB # 68594)  
Perkins Coie LLP  
700 13th St. N.W., Suite 600  
Washington, D.C. 20005-3960  
Phone: (202) 434-1627  
Fax: (202) 654-9106  
Email: [JRoche@perkinscoie.com](mailto:JRoche@perkinscoie.com)

*Attorney for Plaintiffs*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 31st day of December, 2013, I will electronically file the foregoing with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to the following counsel of record. Copies of the video submitted as Exhibit F have been sent via UPS overnight to the same, as well as to the Clerk of the Court.

Mike Melis  
Office of the Attorney General  
900 East Main Street  
Richmond, Virginia 23219  
(804) 786-2071  
Fax: (804) 786-1991  
mmelis@oag.state.va.us

*Attorneys for Defendants Charlie Judd,  
Kimberly Bowers, and Don Palmer in their  
official capacities*

Jonathan Andrew Berry  
Jones Day  
51 Louisiana Ave NW  
Washington, DC 20001  
202-879-3939  
Fax: 202-626-1700  
jberry@jonesday.com

John Matthew Gore  
Jones Day  
51 Louisiana Ave NW  
Washington, DC 20001  
(202) 879-3930  
Fax: (202) 626-1700  
jmgore@jonesday.com

Michael Anthony Carvin  
Jones Day  
51 Louisiana Ave NW  
Washington, DC 20001  
(202) 879-3939  
macarvin@jonesday.com

*Attorneys for Intervenor-Defendant Virginia  
Representatives*

Respectfully submitted,

By           /s/                                  
John K. Roche (VA Bar No. 68594)  
Perkins Coie, LLP  
700 13th St., N.W., Suite 600  
Washington, D.C. 20005-3960  
Phone: (202) 434-1627  
Fax: (202) 654-9106  
JRoche@perkinscoie.com

*Attorneys for Plaintiffs*

## **Exhibit A**

1

2

3

HOUSE OF DELEGATES

4

PRIVILEGES AND ELECTIONS COMMITTEE

5

PUBLIC HEARING IN RE: REDISTRICTING

6

7

8

9

10

11

12

13

14

State Capital Building  
House Room 1  
Richmond, Virginia

15

16

17

18

January 11, 2012  
1:30 p.m.

19

20

21

22

23

24

CAPITOL REPORTING, INC.  
P.O. Box 959

25

Mechanicsville, Virginia 23111  
Tel. No. (804) 788-4917

CAPITOL REPORTING, INC.

□

2

1 APPEARANCES:

2

3 COMMITTEE MEMBERS:

4 Mark L. Cole - Chairman

5 Rosalyn R. Dance

6 Lacey E. Putney

7 S. Chris Jones

8 A.T. Howell

9 J. H. Miller

10 David B. Albo

11 Riley E. Ingram

12 John N. O'Bannon, III

13 Robert B. Bell

14 R. Steven Landes

15 Timothy D. Hugo

16 David I. Ramadan

17 Margaret B. Ransone

18 Israel D. O'Quinn

19 Kenneth C. Alexander

20 Mark D. Sickles

21 Lionell Spruill, Jr.

22

23

24

25

CAPITOL REPORTING, INC.

□

3

1  
2 DELEGATE COLE: I'll call the committee  
3 to order. There's two purposes for this meeting. One  
4 is consider redistricting legislation for the  
5 congressional seats, and also since this is our first  
6 meeting of the session, just to get some inputs  
7 regarding committee, subcommittee assignments. I was  
8 planning on meeting on Friday for that purpose but  
9 since we are meeting now there will not be a committee  
10 meeting on Friday morning.

11 First just a couple of administrative  
12 items: One, I anticipate having the same subcommittees  
13 as last year, so if you have any preferences regarding  
14 subcommittee assignments, please send me an e-mail  
15 letting me know what subcommittees you want to be  
16 assigned to. I can't make promises, but I will do my  
17 best to satisfy any concerns. The election  
18 subcommittee normally has the heaviest workload so I  
19 reserve the right to send elections type bills to other  
20 subcommittees if I think the election subcommittee is  
21 overloaded. But other than that, please let me know.

22 Also I'd like to point out to the members  
23 of the committee House Bill 259. I encourage everybody  
24 to take a look at House Bill 259. I'm patroning that  
25 bill. That bill is making technical adjustments to the

CAPITOL REPORTING, INC.



□

4

1 House of Delegates districts. It's based on input from  
2 general registrars. I sent a letter out to all the  
3 general registrars throughout the state a couple months  
4 ago asking if they had any recommended changes to the  
5 districts to try to do away with split precincts and  
6 things like that, so that House Bill 259 is,  
7 incorporates their inputs, does not incorporate any  
8 inputs from the members, so I'd encourage you to take a  
9 look at that.

10 Delegate Albo.

11 DELEGATE ALBO: I looked the bill up, and  
12 it's basically a recitation of the census blocks, so  
13 the only way a person can understand it is if it had  
14 been reduced to some kind of map or something.

15 DELEGATE COLE: Okay. We can get a  
16 summary out.

17 MR. AUSTIN: Now that the bill is  
18 introduced we can go ahead and make that public on the  
19 General Assembly's redistricting web site.

20 DELEGATE COLE: Okay.

21 MR. AUSTIN: If you have individual  
22 questions we can help you look at your district or of  
23 the districts.

24 DELEGATE ALBO: I memorized all my census  
25 blocks, but I was wondering if you guys might not have

CAPITOL REPORTING, INC.

□

5

1 done that.

2 DELEGATE BELL: Mr. Chair?

3 DELEGATE COLE: Yes?

4 DELEGATE BELL: My local registrar asked  
5 about this issue, asked if there would be limits to the  
6 1 percent deviation, whether that is no longer a  
7 limiting factor.

8 DELEGATE COLE: Yes, that is a factor.

9 As you are aware of, last year the committee adopted  
10 guidelines for the redistricting, and one of them was  
11 no more than 1 percent plus or minus deviation from the  
12 standard population. That still applies to any  
13 adjustments to the districts. And some, I will comment  
14 in case you hear from your registrar that some of their  
15 inputs were not included in the bill. Some of the  
16 inputs that we did get from the registrars exceeded the  
17 1 percent deviation and those were not included in the  
18 legislation.

19 All right, now on to business. We have  
20 one bill before us today and Delegate Bell is the  
21 patron of that bill. What's the bill number?

22 DELEGATE BELL: Mr. Chairman, it's House  
23 Bill 251.

24 DELEGATE COLE: Okay. Delegate Bell,  
25 would you like to present your bill?

CAPITOL REPORTING, INC.

□

6

1                   DELEGATE BELL: Mr. Chairman, with your  
2 permission I'll present it from my seat.

3                   This is not a new bill. For the new  
4 members I'll walk through what it is and what it does.  
5 As everyone knows, there's a decennial census in the  
6 entire United States, and once the decennial census is  
7 done, we are required to redraw the congressional maps  
8 to reflect the new numbers. Some districts are too  
9 big, some districts are too small.

10                  Last year my predecessor, Delegate Janis,  
11 worked with Congress in Washington to construct a map  
12 which is before you. This is the identical map to what  
13 was passed as the engrossed bill last year, so the  
14 members from last year, there are no changes to it, and  
15 I would pass out to this committee there were 2  
16 dissenting votes and they changed their votes after the  
17 amendments on the floor, so all the members currently  
18 sitting on this committee voted on this bill before.

19                  For the new members when you look at the  
20 map, it does several things. It preserves the core of  
21 the existing congressional districts, it complies with  
22 the rule of one man one vote. Let us emphasize that  
23 the federal elections that there's no 1 percent or  
24 2 percent or 5 percent deviation, it has to literally  
25 be one person one vote, so it does comply with the one

CAPITOL REPORTING, INC.

□

7

1 person one vote, it complies with other federal  
2 statutes, most importantly the Voting Rights Act, and  
3 it has been individual members who were consulted with  
4 and approved their individual districts. Now they were  
5 not shown the entire map at the time as I understand it  
6 but at the time they approved their individual  
7 districts.

8 So with that, Mr. Chairman, I present the  
9 bill for your approval. Thank you.

10 DELEGATE COLE: House Bill 251 is before  
11 us and every member should have a copy of it in front  
12 of them. Are there any questions of the patron from  
13 committee members?

14 Delegate Sickles.

15 DELEGATE SICKLES: Mr. Chairman, could  
16 you tell me the percentage of minority vote in the  
17 before existing in the third congressional district and  
18 then what it was before and what the 2 make it?

19 DELEGATE COLE: Talking about the third  
20 district?

21 DELEGATE SICKLES: Third district.

22 DELEGATE COLE: Delegate Bell?

23 DELEGATE BELL: Make sure I understand  
24 the gentleman. The current third lines using the 2010  
25 census is 53.1 percent voting age population which is

CAPITOL REPORTING, INC.

□

8

1 the metric that they use, it's not the total  
2 population, it's voting age population, and the lines  
3 as drawn on the redrawn third with the 2010 census  
4 numbers is 56.3.

5 DELEGATE COLE: Delegate Alexander?

6 DELEGATE ALEXANDER: Delegate Bell, this  
7 bill is identical to what we passed in 2011, is that  
8 correct?

9 DELEGATE BELL: Yes. If you recall it  
10 was one minor amendment on the floor which I actually  
11 think was suggested by the gentleman and his neighbor,  
12 Mr. Howell, but with that, this is identical to as it  
13 passed the floor, yes, sir.

14 DELEGATE ALEXANDER: This bill was also  
15 cleared by the U.S. Justice Department, is that  
16 correct? Has to go to the Justice Department?

17 DELEGATE BELL: Will have to go. The  
18 preclearance, they don't do anything until we give them  
19 something to work on, but we have not yet. As you know  
20 last year ended without us reaching a bill that passed  
21 the House and Senate so we have not sent anything to  
22 them yet.

23 DELEGATE COLE: Are there any other  
24 questions? Delegate Miller.

25 DELEGATE MILLER: I'm probably not

CAPITOL REPORTING, INC.

□

9

1 reading this correctly, may be left off by staff, on  
2 the sheet, pages given for absolute numbers in each  
3 district, for district 10 on page 16 going to page 17,  
4 we start each district with the cities and the  
5 counties. Am I just reading this wrong? I don't find  
6 Fairfax in there. We have Clarke, Frederick, Loudoun,  
7 Manassas, Manassas Park, and Winchester.

8 DELEGATE ALEXANDER: It's not an  
9 accident.

10 DELEGATE BELL: Those are not full  
11 counties, then you see right below that, it's been  
12 broken up, Fairfax is only part of Fairfax and so  
13 forth.

14 DELEGATE MILLER: So break out, okay, I  
15 understand.

16 DELEGATE BELL: Partial but it has the  
17 full counties for the first 2, 3 --

18 DELEGATE MILLER: I got it. All right, I  
19 knew there'd be an explanation.

20 DELEGATE COLE: Any other questions?  
21 Delegate Dance?

22 DELEGATE DANCE: And Petersburg is in one  
23 district?

24 DELEGATE BELL: I believe Petersburg is  
25 in, to answer the gentle lady, Petersburg is in the

CAPITOL REPORTING, INC.

□

10

1 third district and the entire is kept all in one place  
2 so it is listed at the very first beginning of the  
3 third district which is on page 3.

4 DELEGATE COLE: Any questions of  
5 committee members?

6 NOTE: Motion made to report and  
7 seconded.

8 DELEGATE COLE: There is a motion and  
9 second to report. Before I hold a vote on it I want to  
10 invite any members of the public if they wish to speak  
11 on the legislation. Are there any members of the  
12 public who wish to speak on the legislation? Seeing  
13 none, all right, we have a motion duly made and  
14 seconded before us to report House Bill 251. Is there  
15 any discussion?

16 Delegate Sickles.

17 DELEGATE SICKLES: I honestly do not  
18 remember voting for this. The last time I'm pretty  
19 sure I voted against it on the floor, and I was  
20 surprised to hear Delegate Bell say that everyone voted  
21 for it because there was an alternative that I think is  
22 much better the Senate passed and --

23 DELEGATE BELL: Mr. Chair, may I correct,  
24 I see that in fact Delegate Sickles did not vote, I  
25 apologize. I looked at the nays and I did not see your

CAPITOL REPORTING, INC.

□

11

1 name. Hugo, Gilbert, and Sickles did not vote in  
2 committee the last time it came through so I stand  
3 corrected.

4 DELEGATE SICKLES: That was not on  
5 purpose, Mr. Chairman. I must not have been there. I  
6 would have voted no.

7 DELEGATE COLE: All right, any other  
8 discussion? All right, no more discussion. The clerk  
9 will call the role.

10 THE CLERK: Putney (aye), Ingram (aye),  
11 Jones (aye), Albo (aye), Cosgrove (not present),  
12 O'Bannon (aye), Bell (aye), Miller (aye), Landes (aye)  
13 Hugo (aye), Cox (not present), Ramadan (aye) Ransone  
14 (aye), O'Quinn (aye), Scott (not present), Alexander  
15 (aye), Joannou (not present), Sickles (no), Howell  
16 (aye), Dance (aye), Spruill (no), Cole (aye).

17 DELEGATE COLE: The bill is reported 16  
18 to 2.

19 All right, again I'd like to remind  
20 members I will be making some committee assignments and  
21 we'll be referring bills to subcommittee either by  
22 e-mail -- we won't be meeting on Friday. If you have  
23 preferences on subcommittee assignments, please let me  
24 know.

25 The committee is adjourned.

CAPITOL REPORTING, INC.



□

12

1

2

3

CERTIFICATE OF COURT REPORTER

4

5

6

7

8

I, Lynn Aligood, hereby certify that I was the  
Court Reporter for the public hearing conducted by  
the House Privileges and Elections Redistricting  
Committee.

9

10

11

I further certify that the foregoing transcript  
is a true and accurate record of the hearing to  
the best of my ability.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

Given under my hand this 14th day of January  
2012.

---

Lynn Aligood, Court Reporter

CAPITOL REPORTING, INC.

## **Exhibit B**

## 2012 SESSION

### HB 251 Congressional districts; changes in boundaries.

Introduced by: [Robert B. Bell](#) | [all patrons](#) ... [notes](#) | [add to my profiles](#)

#### SUMMARY AS INTRODUCED:

**Congressional districts.** Redraws the boundaries of the 11 congressional districts.

#### FULL TEXT

[01/10/12 House: Prefiled and ordered printed; offered 01/11/12 12103488D](#) pdf

[01/23/12 House: Bill text as passed House and Senate \(HB251ER\)](#) pdf

[01/25/12 Governor: Acts of Assembly Chapter text \(CHAP0001\)](#) pdf

#### HISTORY

01/10/12 House: Prefiled and ordered printed; offered 01/11/12 12103488D

[01/10/12 House: Referred to Committee on Privileges and Elections](#)

[01/11/12 House: Reported from Privileges and Elections \(19-Y 3-N\)](#)

01/12/12 House: Passed by motion rejected

01/12/12 House: Read second time and engrossed

01/13/12 House: Read third time and passed House (74-Y 21-N)

[01/13/12 House: VOTE: PASSAGE \(74-Y 21-N\)](#)

01/16/12 Senate: Constitutional reading dispensed

[01/16/12 Senate: Referred to Committee on Privileges and Elections](#)

[01/17/12 Senate: Reported from Privileges and Elections \(8-Y 7-N\)](#)

01/19/12 Senate: Read second time

01/20/12 Senate: Read third time

[01/20/12 Senate: Passed Senate \(20-Y 19-N\)](#)

01/23/12 House: Enrolled

01/23/12 House: Bill text as passed House and Senate (HB251ER)

01/23/12 House: Signed by Speaker

01/23/12 Senate: Signed by President

01/25/12 Governor: Approved by Governor-Chapter 1 (effective 1/25/12)

01/25/12 Governor: Acts of Assembly Chapter text (CHAP0001)

## **Exhibit C**



COMMONWEALTH of VIRGINIA  
Office of the Attorney General

December 20, 1991

Mary Sue Terry  
Attorney General

H. Lane Kneedler  
Chief Deputy Attorney General

Deborah Love-Bryant  
Chief-of-Staff

K. Marshall Cook  
Deputy Attorney General  
Finance & Transportation Division

R. Claire Guthrie  
Deputy Attorney General  
Human & Natural Resources Division

Gail Starling Marshall  
Deputy Attorney General  
Judicial Affairs Division

Stephen D. Rosenthal  
Deputy Attorney General  
Public Safety & Economic Development Division

BY HAND

Mr. J. Gerald Hebert, Acting Chief  
Voting Section, Civil Rights Division  
U. S. Department of Justice  
320 First Street, N.W., Room 716  
Washington, D. C. 20001

RE: Submission under Section 5 of the Voting Rights Act:  
Ch. 6, 1991 Va. Acts (Special Session II)  
Redistricting U.S. Congressional Seats Allocated to Virginia

Dear Mr. Hebert:

Pursuant to Section 5 of the Voting Rights Act, the Office of the Attorney General of Virginia hereby submits Ch. 6, 1991 Va. Acts (Special Session II), redistricting the U.S. Congressional seats allocated to Virginia. Chapter 6 repeals Va. Code § 24.1-4.3 containing the existing Congressional districts adopted in 1981 and enacts a new Chapter 1.3 in Title 24.1 (§§ 24.1-17.300 through 24.1-17.314) containing the new Congressional districts. This submission includes the information required under 28 C.F.R. §§ 51.26 and 51.27, as well as supplemental information permitted under § 51.28.

We look forward to working with you on this matter and are prepared to provide you promptly with any further information the Department may require to complete its review of this submission. Please call me at (804) 786-2911 if you have any questions or if we may be of further assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read "K. Marshall Cook".

K. Marshall Cook  
Deputy Attorney General

5:65/352-RED135

**INTRODUCTION: ORGANIZATION OF THE SUBMISSION**

This submission pursuant to § 5 of the Voting Rights Act presents the information required under 28 C.F.R. §§ 51.26-51.28 for preclearance review of 1991 Va. Acts Ch. 6 (Special Session II) redistricting Virginia's U.S. Congressional seats. The submission is contained in 14 labeled notebooks and maps. The first unnumbered blue notebook provides an overview of the entire submission, keyed to the applicable Federal regulations, and references various attachments when the information requested cannot conveniently be presented in summary format. The plans and supporting data are contained in 13 consecutively numbered black notebooks and maps accompanying the submission. Original hearing transcripts and videotaped recordings of floor debates also accompany the submission and, in addition, are summarized in the appropriate attachment.

SUBMISSION UNDER § 5 OF THE VOTING RIGHTS ACT:  
1991 VA. ACTS CH. 6 (SPECIAL SESSION II)  
REDISTRICTING VIRGINIA'S U.S. CONGRESSIONAL SEATS

DATE: December 20, 1991

**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. 6, 1991 Va. Acts (Special Session II) ("Chapter 6") (Attachment 1).
  - (b) Copy of current Va. Code § 24.1-4.3 (Attachment 2).
  - (c) Statement of the change. Attachment 3 provides a detailed explanation of Chapter 6 redistricting the U.S. Congressional seats allocated to Virginia.
  - (d) K. Marshall Cook  
Deputy Attorney General  
Office of the Attorney General  
Supreme Court Building  
101 North Eighth Street  
Richmond, Virginia 23219  
(804) 786-2911
  - (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:

"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 1971 and every ten years thereafter.

"Any such reapportionment law shall take effect immediately and not be subject to the limitations contained in Article IV, Section 13 [concerning the effective date of laws generally], of this Constitution."

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 and approved by the Governor.

- (i) Chapter 6, 1991 Va. Acts (Special Session II), was adopted by the General Assembly on December 9, 1991 and signed by the Governor on December 11, 1991.
- (j) Pursuant to Va. Const. Art. II § 6 (1971), Chapter 6 became effective immediately on December 11, 1991.
- (k) Chapter 6 has not yet been enforced or administered.
- (l) Chapter 6 affects all Congressional districts.
- (m) A statement of the reasons for the change is included in Attachment 3. See also item (h) above.
- (n) Statement of anticipated effect on members of racial minority groups. Attachment 4. See also Attachment 9. No significant concentration of persons representing a language minority has been identified in Virginia.
- (o) Statement identifying past or pending litigation concerning the change or related voting practices. Attachment 5.
- (p) Va. Code § 24.1-4.3, containing the current Congressional districts, was last amended on February 21, 1985 and was last precleared on June 26, 1985.



As discussed in item (h) above, Ch. 6, 1991 Va. Acts (Special Session II) reapportioning the U.S. Congressional seats allocated to Virginia was adopted pursuant to the procedure provided in Va. Const. Art. II § 6, Art. IV § 11 and Art. V § 6. Article IV § 11 and Art. V § 6 as last amended in 1980 were precleared on July 11, 1980. Article II § 6 was precleared on June 18, 1971 and has not been amended.

(q) & (r) See items referenced under § 51.28.

Section 51.28

(a) Demographic information

- (1) Total and voting age population for each district under present Va. Code § 24.1-4.3 and under Chapter 6 by race are provided in Attachments 6 and 7. As noted, no significant concentration of persons representing a language minority has been identified in Virginia.
- (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 1991 is provided in Attachment 8.
- (3) Official 1990 population information, including precinct and block data and racial and language population data, was received from the U. S. Bureau of the Census on January 22, 1991. The official U. S. Census data immediately became part of the public records available to individuals and groups participating in the redistricting process. No other estimates of population were made in connection with the adoption of the change.

(b) Maps

- (1) Maps showing prior and new district boundaries are contained in Attachment 9.

- (2) Not applicable. Chapter 6 does not change voting precincts. Changes in voting precincts are the responsibility of local governments.
- (3) The locations of concentrations of racial minority groups are shown, by precinct, in Attachment 9. As noted, no significant concentration of persons representing a language minority has been identified in Virginia.
- (4) Maps of the Commonwealth of Virginia. Maps showing natural boundaries or geographical features influencing the selection of the old district boundaries in Va. Code § 24.1-4.3 and the new boundaries in Chapter 6 are contained in Attachment 11 of the submission relating to the redistricting of the Virginia House of Delegates. That submission was dated and delivered to the Department of Justice on May 17, 1991. This incorporation of portions of the earlier submission by reference is made pursuant to 28 C.F.R. § 51.26(e).
- (5) & (6) Not applicable. Chapter 6 does not change polling places or voter registration sites. Such changes are the responsibility of local governments.
- (c) Not applicable.
- (d) Election returns. Attachment 10 provides election return data by precinct for the 1990 U.S. Congressional elections and the November 1991 elections for the Virginia Senate and House of Delegates. A listing of precincts before the 1991 local redistricting is also provided for use with the 1990 U.S. Congressional election returns. The data for that election also are presented on an adjusted basis showing statistically estimated results for precincts whose boundaries changed between 1983 and 1989. Historical returns for these precincts were statistically estimated and adjusted to conform to 1990 precinct boundaries. The

actual data were compiled by the Virginia State Board of Elections and adjusted by the Virginia Division of Legislative Services.

Statewide election return data prepared by the Virginia Division of Legislative Services beginning in 1983 are contained in Attachment 12 of the submission relating to the Virginia House of Delegates that was dated and delivered to the Department of Justice on May 17, 1991. The referenced attachment, which is incorporated pursuant to 28 C.F.R. § 51.26(e), includes information on the names of each candidate, the race of candidates, the position sought by each candidate, the total number of votes cast for each candidate in each precinct and the outcome of each contest. Information on the number of registered voters by race or language group is not available in Virginia, and as noted previously, no significant concentration of persons representing a language minority has been identified in Virginia.

(e) Not applicable.

(f) Publicity and participation.

(1) The 1991 Virginia Congressional redistricting process received extensive statewide media coverage. Attachment 11 provides a sampling of representative newspaper articles.

(2) Notices were sent to all news media and to a comprehensive list of over 200 individuals and groups who had requested notice or who were believed to be potentially interested in the redistricting process. See Attachment 12. In addition, the NAACP and the ACLU were invited to use the Computer Assisted Mapping and Computer Assisted Redistricting System ("CAM/CAR") on the same basis as members of the General Assembly. See Attachment 12 for letters to representatives of the ACLU and NAACP.

- (3) Summaries of the public hearings on reapportioning Virginia's Congressional seats are provided in Attachment 13. Full transcripts, together with statements filed at the hearings, are contained in separately bound and labeled volumes accompanying this submission.
- (4) Statements, speeches and other public communications, including alternative proposals, submitted in connection with the adoption of Chapter 6 are provided in Attachment 14.
- (5) Attachments 13 and 14 include comments from the general public.
- (6) Attachment 15 provides a brief summary of the legislative history of Chapter 6 together with floor amendments, summaries of floor debates, and recorded votes in committee and on the floor. Videotaped recordings of the floor debates in the Virginia House of Delegates and Senate on the Congressional Redistricting Plan are included with this submission.
- (g) Availability of the submission. Attachment 16 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.
- (h) Minority group contacts. Attachment 12 provides the names and addresses of individuals and racial minority groups in Virginia who can be expected to be familiar with Chapter 6 or who have been active in the political process. As noted, no significant concentration of persons representing a language minority has been identified in Virginia.

*An Act to amend the Code of Virginia by adding in Title 24.1 a chapter numbered 1.3, consisting of sections numbered 24.1-17.300 through 24.1-17.314, and to repeal §§ 24.1-4.3 and 24.1-5 of the Code of Virginia, relating to congressional districts in the Commonwealth.*

[S 2003]

Approved DEC 11 1997

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 24.1 a chapter numbered 1.3, consisting of sections numbered 24.1-17.300 through 24.1-17.314, as follows:

## CHAPTER 1.3.

## CONGRESSIONAL DISTRICTS OF VIRGINIA.

§ 24.1-17.300. Congressional districts.—There shall be eleven Virginia members of the United States House of Representatives elected from eleven congressional districts and each district is entitled to representation by one representative.

§ 24.1-17.301. First District.—The First Congressional District shall consist of the Counties of Accomack, Caroline, Gloucester, King George, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Stafford, Westmoreland, and York; the Cities of Fredericksburg, Poquoson, and Williamsburg; the following Hanover County precincts: Ashcake, Ashland, Battlefield, Blunts, Courthouse, Elmont, Goddins Hill, Old Church, Rural Point, Stonewall Jackson, and Studley; the following James City County precincts: Berkeley, Jamestown A, Jamestown B, Powhatan, and Stonehouse; the following Spotsylvania County precincts: Battlefield, Brent's Mill, Courthouse, Salem, and Summit; the following City of Hampton precincts: Booker, Burbank, Fox Hill, Kecoughtan, La Salle, Northampton, Phillips, and Tucker-Capps; the following City of Newport News precincts: Beaconsdale, Boulevard, Christopher Newport, Deer Park, Hilton, Jenkins, McIntosh, Palmer, Richneck, Saunders, Sedgefield, South Morrison, and Yates; a part of the Wilmington Parish Precinct of Hanover County; a part of the following Spotsylvania County precincts: Blaydes Corner and Traveler's Rest; a part of the following City of Hampton precincts: Buckroe, Kraft, Phoebus, River, Tyler, and Wythe; and part of the following City of Newport News precincts: Charles, Deep Creek, Hiddenwood, James Brandon, Reservoir, Riverside, Sanford, and Warwick.

§ 24.1-17.302. Second District.—The Second Congressional District shall consist of the following City of Norfolk precincts: Numbers 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 32, 33, 34, 35, 38, 40, 41, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, and 55; the following City of Virginia Beach precincts: Alanton, Aragona, Arrowhead, Bayside, Bellamy, Blackwater, Bonney, Brandon, Cape Henry, Capps Shop, Chesapeake Beach, College Park, Courthouse, Creeds, Davis Corner, Fairfield, Great Neck, Green Run, Holland, Homestead, Kempsville, Kings Grant, Kingston, Lake Smith, Larkspur, Linkhorn, Little Neck, London Bridge, Lynnhaven, Magic Hollow, Malibu, Mount Trashmore, Oceana, Ocean Park, Old Donation, Pembroke, Plaza, Providence, Red Wing, Salem, Seatack, Shannon, Sigma, Stratford Chase, Thalia, Thoroughgood, Timberlake, Trantwood, Virginia Beach A, Virginia Beach B, Virginia Beach C, Windsor Oaks, Witchduck, Wolfsnare, and Woodstock; a part of Precinct Number 39 of the City of Norfolk; and a part of the Lake Christopher Precinct of the City of Virginia Beach.

§ 24.1-17.303. Third District.—The Third Congressional District shall consist of the Counties of Charles City, Essex, King and Queen, King William, New Kent, Richmond, and Surry; the following Henrico County precincts: Azalea, Brookland, Cedar Fork, Chamberlayne, Eanes, East Highland Park, Glen Echo, Glenwood, Highland Gardens, Montrose, Ratcliffe, and Sullivans; the Roberts Precinct of James City County; the following City of Hampton precincts: Aberdeen, Bassett, Cooper, Lee, Mallory, Pembroke, Phenix, and Smith; the following City of Newport News precincts: Briarfield, Carver, Chestnut, Denbigh, Downtown, Dunbar, Epes, Huntington, Jefferson, Lee, Magruder, Marshall, Nelson, Newmarket, Newsome Park, Reed, River, Washington, Wilson, and Zed-Fort Eustis; the following City of Norfolk precincts: Numbers 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 28, 29, 30, 31, 36, 37, and 42; the following City of Petersburg precincts: Ward I-Precinct 1, Ward I-Precinct 2, Ward IV-Precinct 2, Ward V-Precinct 1, Ward V-Precinct 2, Ward VI-Precinct 1, Ward VI-Precinct 2, and Ward VII-Precinct 1; the following City of Portsmouth precincts: Numbers 7, 9, 11, 13, 14, 20, 21, 26, 27, and 28; the following City

of Richmond precincts: Numbers 301, 302, 303, 304, 305, 306, 307, 310, 403, 405, 406, 407, 501, 502, 503, 504, 505, 506, 507, 601, 602, 603, 604, 605, 606, 607, 608, 701, 702, 703, 704, 705, 706, 707, 801, 802, 803, 804, 805, 806, 807, 901, 902, 903, 904, 905, 906, and 907; a part of the following Henrico County precincts: Brook Hill, Glen Lea, Highland Springs, Longdale, Town Hall, and Whitlocks; a part of the following Prince George County precincts: Election District 1-Number 4 and Election District 2-Number 1; a part of the following City of Hampton precincts: Buckroe, Kraft, Phoebus, River, Tyler, and Wythe; a part of the Ward Two Precinct of the City of Hopewell; a part of the following City of Newport News precincts: Charles, Deep Creek, Hiddenwood, James Brandon, Reservoir, Riverside, Sanford, and Warwick; a part of the Number 39 Precinct of the City of Norfolk; a part of Ward IV-Precinct 1 of the City of Petersburg; a part of the following City of Portsmouth precincts: Numbers 10, 36, 37, and 38; a part of the following City of Richmond precincts: Numbers 203 and 404; and a part of the Yeates Precinct of the City of Suffolk.

§ 24.1-17.304. *Fourth District.*—The Fourth Congressional District shall consist of the Counties of Amelia, Brunswick, Dinwiddie, Goochland, Greensville, Isle of Wight, Louisa, Nottoway, Powhatan, Southampton, and Sussex; the Cities of Chesapeake, Colonial Heights, Emporia, and Franklin; the following Chesterfield County precincts: Beach, Ettrick, Harrowgate, Matoaca, and Winfree's Store; the following Prince George County precincts: Election District 1-Number 1, Election District 1-Number 2, Election District 1-Number 3, Election District 2-Number 2, and Election District 2-Number 3; the following City of Hopewell precincts: Ward One, Ward Three, Ward Four, and Ward Five; the following City of Petersburg precincts: Ward II-Precinct 1, Ward II-Precinct 2, Ward III-Precinct 1, Ward III-Precinct 2, Ward IV-Precinct 3, and Ward VII-Precinct 2; the following City of Portsmouth precincts: Numbers 1, 5, 16, 17, 19, 22, 23, 24, 25, 29, 30, 31, 32, 33, 34, and 35; the following City of Suffolk precincts: Airport, Booker T. Washington, Chuckatuck, Cypress Chapel, Driver, Eastover, Ebenezer, Hall Place, Holland, Holy Neck, John F. Kennedy No. 1., John F. Kennedy No. 2, Kilby's Mill, King's Fork, Lakeside, Riverview, and Whaleyville; a part of the following Chesterfield County precincts: Enon, Skinquarter, and Wells; a part of the following Prince George County precincts: Election District 1-Number 4 and Election District 2-Number 1; a part of the Ward Two precinct of the City of Hopewell; a part of Ward IV-Precinct 1 of the City of Petersburg; a part of the following City of Portsmouth precincts: Numbers 10, 36, 37, and 38; a part of the Yeates Precinct of the City of Suffolk; and a part of the Lake Christopher Precinct of the City of Virginia Beach.

§ 24.1-17.305. *Fifth District.*—The Fifth Congressional District shall consist of the Counties of Appomattox, Buckingham, Campbell, Charlotte, Cumberland, Fluvanna, Franklin, Halifax, Henry, Lunenburg, Mecklenburg, Nelson, Patrick, Pittsylvania, and Prince Edward; the Cities of Bedford, Charlottesville, Danville, Martinsville, and South Boston; the following Albemarle County precincts: Batesville, Covesville, Crozet, Ivy, Keswick, Monticello, North Garden, Porter's, Scottsville, and Stony Point; the following Bedford County precincts: Big Island, Boonsboro, Bunker Hill, Cove, Forest, Goode, Huddleston, Kelso, Liberty High School, Montvale, Mountain View, New London, Otter Hill, Sedalia, Sign Rock, Staunton River, Thaxton, Walton's Store, and White House; a part of the Woodbrook Precinct of Albemarle County; and a part of the Shady Grove Precinct of Bedford County.

§ 24.1-17.306. *Sixth District.*—The Sixth Congressional District shall consist of the Counties of Alleghany, Amherst, Augusta, Bath, Botetourt, Highland, and Rockbridge; the Cities of Buena Vista, Clifton Forge, Covington, Harrisonburg, Lexington, Lynchburg, Roanoke, Salem, Staunton, and Waynesboro; the following Bedford County precincts: Chamblissburg, Hardy, Moneta, and Stewartsville; the following Roanoke County precincts: Bonsack, Botetourt Springs, Burlington, Castle Rock, Catawba, Cave Spring, Clearbrook, Cotton Hill, Garst Mill, Hollins, Hunting Hills, Lindenwood, Monterey, Mount Pleasant, Mount Vernon, Northside, North Vinton, Oak Grove, Ogden, Penn Forest, Peters Creek, Plantation, Read Mountain, South Vinton, and Windsor Hills; the following Rockingham County precincts: Bergton, Bridgewater Number 1, Bridgewater Number 2, Cootes, Dayton Number 1, Dayton Number 2, Edom, Elkton Number 1, Elkton Number 2, Grottoes, Keezletown, Massanetta Springs, McGaheysville, Melrose, Mill Creek, Mount Clinton, Mount Crawford, Ottobine, Port Republic, and Singers Glen; a part of the Shady Grove Precinct of Bedford County; a part of the Mason Valley Precinct of Roanoke County; and a part of the Broadway Precinct of Rockingham County.

§ 24.1-17.307. *Seventh District.*—The Seventh Congressional District shall consist of the Counties of Culpeper, Greene, Madison, and Orange; the following Albemarle County

precincts: Berkeley, Free Bridge, Free Union, Hollymead, and Jack Jouett; the following Chesterfield County precincts: Bellwood, Belmont, Beulah, Bon Air, Chippenham, Courthouse, Cranbeck, Crestwood, Davis, Drewry's Bluff, Falling Creek, Genito, Greenfield, Harbour Pointe and Swift Creek, Huguenot, Manchester, Meadowbrook High School, Midlothian, North Chester, Pocahontas, Providence, Reams, Robious A, Robious B, Saint Luke, Salem Church, Salisbury, Shenandoah, Smoketree, South Chester, Sycamore, Tomahawk, Wagstaff, and Winterpock; the following Hanover County precincts: Beaverdam, Clays, Cold Harbor, Farrington, Montpelier, Rockville, and Village; the following Henrico County precincts: Bethlehem, Bloomingdale, Canterbury, Carver, Chickahominy, Crestview, Deep Run, Derbyshire, Forest Heights, Freeman, Gayton, Glen Allen, Glenside, Godwin, Greendale, Hermitage, Hilliard, Hungary, Laburnum, Lakeside, Longan, Maybeury, Monument Hills, Pemberton, Pinchbeck, Ridge, Ridgefield, Rollingwood, Sadler, Sandston, Seven Pines, Short Pump, Skipwith, Spottswood, Staples Mill, Summit Court, Three Chopt, Tuckahoe, Tucker, West End, Westwood, Wilkinson, and Wistar; the following Spotsylvania County precincts: Belmont, Brokenburg, Grange Hall, Holbert Building, Maury, Partlow, and Todds Tavern; the following City of Richmond precincts: Numbers 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 201, 202, 204, 205, 206, 207, 208, 209, 308, 309, 401, and 402; a part of the Woodbrook Precinct of Albemarle County; a part of the following Chesterfield County precincts: Enon, Skinquarter, and Wells; a part of the following Henrico County precincts: Brook Hill, Glen Lea, Highland Springs, Longdale, Town Hall, and Whitlocks; a part of the following Spotsylvania County precincts: Blaydes Corner and Travelers Rest; and a part of the following City of Richmond precincts: Numbers 203 and 404.

§ 24.1-17.308. Eighth District.—The Eighth Congressional District shall consist of Arlington County; the Cities of Alexandria and Falls Church; the following Fairfax County precincts: Belle Haven, Belleview, Bucknell, Bush Hill, Cameron, Cardinal, Chain Bridge, Chesterbrook, Churchill, Crestwood, Delong, El Nido, Fairfield, Forest, Fort Hunt, Franconia, Garfield, Groveton, Gunston, Haycock, Hayfield, Hollin Hall, Huntington, Irving, Keene Mill, Kirby, Kirkside, Langley, Longfellow, Lorton, Lynbrook, Marlan A, Marlan B, McLean, Mount Eagle, Newington, North Springfield Number 1, North Springfield Number 2, North Springfield Number 3, Orange, Pimmit, Pohick, Rose Hill, Salona, Saratoga, Sherwood, Stratford, Valley, Virginia Hills, Waynewood, Westgate, Westhampton, Westmoreland, Whitman, Woodlawn, and Woodley; and a part of the White Oaks Precinct of Fairfax County.

§ 24.1-17.309. Ninth District.—The Ninth Congressional District shall consist of the Counties of Bland, Buchanan, Carroll, Craig, Dickenson, Floyd, Giles, Grayson, Lee, Montgomery, Pulaski, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe; the Cities of Bristol, Galax, Norton, and Radford; the following Roanoke County precincts: Bent Mountain, Glenvar, Green Hill, and Poages Mill; and a part of the Mason Valley Precinct of Roanoke County.

§ 24.1-17.310. Tenth District.—The Tenth Congressional District shall consist of the Counties of Clarke, Fauquier, Frederick, Loudoun, Page, Rappahannock, Shenandoah, and Warren; the Cities of Manassas, Manassas Park, and Winchester; the following Fairfax County precincts: Chantilly, Clifton, Cooper, Cub Run, Forestville, Fox Mill, Franklin, Great Falls, Greenbriar East, Greenbriar West, Kenmore, Kinross, London Towne, Navy, Newgate, Oakton, Shouse, Sully, and Vale; the following Prince William County precincts: Armory, Brentsville, Buckhall, Bull Run, Catharpin, Coles, Evergreen, Haymarket, Henderson, Jackson, Linton Hall, Loch Lomond, McCoart, Nokesville, Parkside, Pattie, Sinclair, Stonewall, Sudley, Washington Reid, Westgate, and Woodbine; the following Rockingham County precincts: Tenth Legion and Timberville; a part of the Flint Hill Precinct of Fairfax County; and a part of the Broadway Precinct of Rockingham County.

§ 24.1-17.311. Eleventh District.—The Eleventh Congressional District shall consist of the City of Fairfax; the following Fairfax County precincts: Baileys, Barcroft, Belvedere, Blake, Bren Mar, Bristow, Brook Hill, Burke, Camelot, Chapel, Cherry Run, Clearview, Columbia, Dogwood, Edsall, Fairfax Station, Fairview, Fort Buffalo, Freedom Hill, Glade, Glen Forest, Graham, Greenway, Heritage, Herndon Number 1, Herndon Number 2, Herndon Number 3, Holmes, Hummer, Hunters Woods, Hutchison, Kings Park, Lake Braddock, Laurel, Leehigh, Lincolnia, Little Run, Long Branch, Magarity, Mantua, Marshall, Masonville, Merrifield, Mosby, North Point, Nottoway, Oak Hill, Olley, Parklawn, Pine Ridge, Pine Spring, Pioneer, Poe, Price, Ravensworth, Ravenwood, Reston Number 1, Reston Number 2, Reston Number 3, Robinson, Saint Albans, Shreve, Sideburn, Signal Hill, Skyline, Sleepy Hollow, South Lakes, Stenwood, Sunrise Valley, Terra Centre, Terraset,

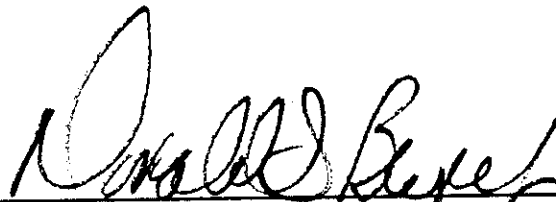
Thoreau, Timber Lane, Tripps, Vienna Number 1, Vienna Number 2, Vienna Number 3, Vienna Number 4, Vienna Number 5, Vienna Number 6, Villa, Wakefield, Walker, Walnut Hill Number 1, Walnut Hill Number 2, Westbriar, Westlawn, Weyanoke, Whittier, Willston, Wolftrap, Woodburn, Woodson A, Woodson B, Woodyard, and including the Fairfax County governmental complex located within the City of Fairfax; the following Prince William County precincts: Bel Air, Belmont, Bethel, Civic Center, Dale, Dumfries, Enterprise, Featherstone, Godwin, Graham Park, Kerrydale, Kilby, King, Lake Ridge, Library, Lynn, Minnieville, Neabsco, Occoquan, Old Bridge, Potomac, Potomac View, Quantico, Rippon, Rockledge, Saunders, Springwoods, and Tall Oaks; and a part of the following Fairfax County precincts: Flint Hill and White Oaks.

§ 24.1-17.312. Boundaries of political subdivisions and precincts.—All references to boundaries of political subdivisions and precincts shall be interpreted to refer to those in existence on April 1, 1991, and as reported by the United States Bureau of the Census in census reports provided pursuant to P. L. 94-171, notwithstanding subsequent boundary changes by law, annexation, merger, consolidation, or the voiding of boundary changes theretofore made final.

§ 24.1-17.313. Parts of precincts.—Parts of precincts listed in this chapter are described by reference to United States Census blocks as contained in the Statistical Report for Senate Bill Number 2003 on file with the Clerk of the Senate of Virginia.

§ 24.1-17.314. Severability.—If any provision of this chapter or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect the other provisions or applications of this chapter which can be given effect without the invalid provisions or application, and to this end the provisions of this chapter are severable.

2. That §§ 24.1-4.3 and 24.1-5 of the Code of Virginia are repealed.

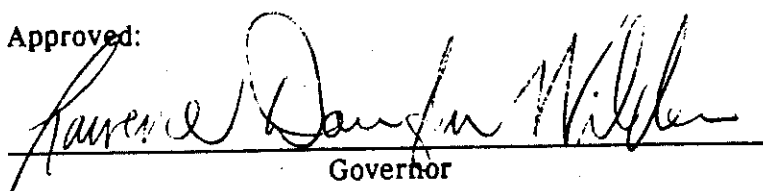


President of the Senate



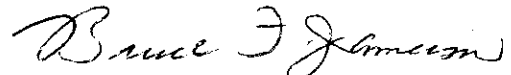
Speaker of the House of Delegates

Approved:



Governor

A TRUE COPY, TESTED:



Clerk of the House of Delegates and  
Keeper of the Rolls of the State

12/18/91



**Cross reference.** — For present provisions covering the subject matter of the repealed section, see § 24.1-4.3.

**§ 24.1-4.3. Congressional districts.** — The Commonwealth is hereby divided into ten congressional districts, as follows:

First. — The Cities of Hampton, Newport News, Poquoson, and Williamsburg; and the Counties of Accomack, Caroline, Charles City, Essex, Gloucester, James City, King and Queen, King George, King William, Lancaster, Mathews, Middlesex, New Kent, Northampton, Northumberland, Richmond, Westmoreland, and York.

Second. — The Cities of Norfolk and Virginia Beach.

Third. — The City of Richmond; the County of Henrico; and that portion of Chesterfield County not contained in the fourth congressional district.

Fourth. — The Cities of Chesapeake, Colonial Heights, Emporia, Franklin, Hopewell, Petersburg, Portsmouth, and Suffolk; the Counties of Amelia, Brunswick, Dinwiddie, Greensville, Isle of Wight, Nottoway, Powhatan, Prince George, Southampton, Surry, and Sussex; and that portion of Chesterfield County contained in the sixteenth senatorial district as established by § 24.1-14.2, enacted in Chapter 2 of the 1981 Special Session Acts of Assembly of Virginia.

Fifth. — The Cities of Bedford, Danville, Martinsville, and South Boston; that portion of the City of Lynchburg included in the fifth congressional district as constituted on January 1, 1981; the Counties of Appomattox, Bedford, Buckingham, Campbell, Carroll, Charlotte, Cumberland, Fluvanna, Franklin, Halifax, Henry, Lunenburg, Mecklenburg, Nelson, Patrick, Pittsylvania, and Prince Edward.

Sixth. — The Cities of Buena Vista, Clifton Forge, Covington, Harrisonburg, Lexington, Roanoke, Salem, Staunton, and Waynesboro; that portion of Lynchburg included in the sixth congressional district as constituted on January 1, 1981; the Counties of Alleghany, Amherst, Augusta, Bath, Botetourt, Highland, Roanoke, Rockbridge, and Rockingham.

Seventh. — The Cities of Charlottesville, Fredericksburg, Manassas, Manassas Park, and Winchester; the Counties of Albemarle, Clarke, Culpeper, Fauquier, Frederick, Goochland, Greene, Hanover, Louisa, Madison, Orange, Page, Rappahannock, Shenandoah, Spotsylvania, and Warren; that portion of Prince William County not in the eighth congressional district; and that portion of Stafford County not included in the eighth congressional district.

Eighth. — The City of Alexandria; that portion of Fairfax County south of a line beginning at the point on the Loudoun County-Fairfax County boundary where United States Route 50 intersects said boundary, thence in a southeasterly direction to the western boundary of Fairfax City, thence in a southwesterly direction along said boundary to its intersection with United States Routes 29-211, thence in a southwesterly direction along United States Routes 29-211 to their intersection with Shirley Gate Road, thence in a southwesterly direction along Shirley Gate Road to its intersection with Braddock Road, thence in a southeasterly direction along Braddock Road to its intersection with Burke Station Road, thence in a northerly direction along Burke Station Road to its intersection with Laurel Street, thence in an easterly direction along Laurel Street to its intersection with Whitacre Road, thence in a southerly direction along Whitacre Road to its intersection with the southern Fairfax County School Board property line, thence in an easterly direction along said line, and continuing said line to a point of intersection with Olley Lane, thence in a northerly direction along Olley Lane to its intersection with State Route 236, thence in a southeasterly direction along

State Route 236 to its intersection with the boundary of the Mason District, thence along said district boundary in a southerly and then easterly direction to its intersection with the western boundary of Alexandria City; that portion of Prince William County south and east of a line beginning at the point on the Fauquier County-Prince William County boundary where State Route 607 intersects said boundary, thence in a northerly direction along State Route 607 to its intersection with State Route 646 (Aden Road), thence in a northerly direction along State Route 646 to its intersection with the tracks of the Southern Railway, thence in a northeasterly direction along said tracks to their intersection with the boundary of Manassas City, thence in an easterly and then northerly direction along said boundary to its intersection with Signal Hill Road, thence in an easterly direction along Signal Hill Road to its intersection with Buckhall Branch, and thence in an easterly direction along Buckhall Branch and then through Cotting Lake on a line extended due east from Cotting Lake to the Fairfax County-Prince William County boundary; and that portion of Stafford County north of a line beginning at the point on the Fauquier County-Stafford County boundary where State Route 616 intersects said boundary, thence in a southeasterly direction along State Route 616 to its intersection with Potomac Run, thence in a southeasterly direction along Potomac Run to its intersection with Long Branch, thence in a southeasterly direction along Long Branch to its intersection with Potomac Creek, and thence in an easterly direction along Potomac Creek to the Maryland-Virginia boundary.

Ninth. — The Cities of Bristol, Galax, Norton, and Radford; and the Counties of Bland, Buchanan, Craig, Dickenson, Floyd, Giles, Grayson, Lee, Montgomery, Pulaski, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe.

Tenth. — The Cities of Fairfax and Falls Church; the Counties of Arlington and Loudoun; and that portion of Fairfax County not included in the eighth congressional district.

All references to districts, boundaries, streets, and highways shall be interpreted to refer to those in existence on April 1, 1981, unless specifically stated otherwise in this section, notwithstanding subsequent boundary changes by annexation, merger, consolidation, or the voiding of boundary changes theretofore made final; provided, that all references to the boundaries of the City of Manassas shall be to those boundaries in effect as of January 1, 1984. All references to streets, bodies of water, rights-of-way, and other physical features used in describing district boundaries shall be interpreted to refer to the center line of such features unless specifically stated otherwise in this section. (1981, Sp. Sess., c. 8; 1985, c. 12.)

**Cross reference.** — For constitutional provisions as to apportionment of State into congressional districts, see Va. Const., Art. II, § 6.

**The 1985 amendment** added the language beginning "provided, that" at the end of the first sentence of the last paragraph.

**Law Review.** — For article, "The Virginia Legislative Reapportionment Case: Reapportionment Issues Of The 1980's," see 5 Geo. Mason L. Rev. 1 (1982).

It is the duty of the General Assembly to

reapportion the congressional districts of Virginia so that each district shall be composed of contiguous and compact territory, containing as nearly as practicable an equal number of inhabitants, and, so far as can be done without impairing the essential requirement of substantial equality in the number of inhabitants among the districts, give effect to the community of interest within the districts. *Wilkins v. Davis*, 205 Va. 803, 139 S.E.2d 849 (1965).

Any plan of districting which is not

based upon approximate equality of inhabitants will work inequality in right of suffrage and of power in elections of the representatives in Congress. *Wilkins v. Davis*, 205 Va. 803, 139 S.E.2d 849 (1965).

**Certification of congressional candidates only for election at large from State.**

— Because 2 U.S.C. § 2c requires that each state establish a number of districts equal to

the number of congressional representatives to which such state is entitled, and that "Representatives shall be elected only from districts so established . . .," the Supreme Court cannot legally issue a peremptory writ of mandamus requiring the State Board of Elections to certify congressional candidates only for election at large from the State. *Simpson v. Mahan*, 212 Va. 416, 185 S.E.2d 47 (1971).

**§ 24.1-5. Each district to elect one representative.** — The qualified voters of each of such congressional districts shall choose one representative of this Commonwealth in the House of Representatives of the Congress of the United States. (Code 1950, § 24-4; 1970, c. 462.)

**§ 24.1-6. How and when representatives elected.** — Members of the House of Representatives of the Congress of the United States shall be chosen by the qualified voters of the respective congressional districts, at the general election in November, of the year 1970, and every second year thereafter, for the term of two years. (Code 1950, § 24-5; 1970, c. 462.)

**§ 24.1-7. Governor to issue writs to fill vacancies in House of Representatives.** — When any vacancy shall occur in the representation of the Commonwealth of Virginia in the House of Representatives of the Congress of the United States or when a representative-elect shall die or resign, the Governor shall issue a writ of election to fill such vacancy. Upon receipt of written notification by a representative or representative-elect of his resignation as of a stated date, the Governor may immediately issue a writ to call such an election. (Code 1950, § 24-6; 1970, c. 462; 1983, c. 461.)

**§ 24.1-8. Electors for President and Vice-President.** — There shall be chosen by the qualified voters of the Commonwealth, at the election to be held on the Tuesday after the first Monday in November, 1972, and at elections to be held on the Tuesday after the first Monday in November in each fourth year thereafter, so many electors for President and Vice-President of the United States as this Commonwealth shall be entitled to at the time of such election under the Constitution and laws of the United States. Each voter voting in such election shall vote for the number of electors which shall be equal to the whole number of senators and representatives to which the Commonwealth may at that time be entitled in the Congress of the United States. (Code 1950, § 24-7; 1970, c. 462.)

**Constitutionality.** — Virginia's design for selecting presidential electors does not disserve the United States Constitution. *Williams v.*

*Virginia State Bd. of Elections*, 288 F. Supp. 622 (E.D. Va. 1968), *aff'd*, 393 U.S. 320, 89 S. Ct. 555, 21 L. Ed. 2d 516 (1969).

**ATTACHMENT 3**

**STATEMENT OF THE CHANGE**

Because the population of Virginia increased by nearly 16 percent since the last congressional redistricting, an additional, eleventh, congressional district was apportioned to the Commonwealth following the 1990 census. Between 1980 and 1990, Virginia's population increased from 5,346,818 to 6,187,358, an increase of 840,540 and a growth rate of 15.72 percent. Virginia's three major metropolitan areas accounted for the largest population growth: Northern Virginia 42.9 percent of the total growth, Newport News-Norfolk 27.2 percent, and Richmond 12.8 percent. Localities adjacent to these three metropolitan centers also experienced rapid growth. The growth was uneven, however, with the rural western and southside areas of the state either losing population or growing at a rate much slower than the rest of the state.

Virginia's eleven congressional districts are apportioned by Chapter 6, 1991 Va. Acts (Spec. Sess. II) ("Chapter 6"). The eleven districts include an open district (a district with no resident incumbent member of Congress) with majority black total and voting age populations, designated District 3, and an additional, new open district in Northern Virginia, designated District 11.

The addition of an eleventh congressional district caused the ideal population for a congressional district to remain relatively constant and minimized the potential changes in the areas of low growth. Extensive redrawing of district lines was

necessitated in the remainder of the Commonwealth, however, to meet ideal population standards, establish a majority black district, and create a new open district in the Northern Virginia area of highest population growth.

#### Western and Southside Virginia

This area covers present Districts 5, 6, and 9. These 3 districts were 66,050 below the ideal population level according to the 1990 census. District 9 contained the largest population shortfall (38,684) for an ideal district. Located in the far western corner of Virginia, new District 9 extended its eastern boundary into present District 5 (Carroll County) and present District 6 (portions of Roanoke County) to gain the necessary population. New District 6, in turn, added portions of Bedford County and the City of Lynchburg from present District 5 to reunite Lynchburg in District 6. A small portion of Rockingham County was moved from new District 6 to balance the district's total population.

The shift of the City of Charlottesville and nearly one-half of Albemarle County from present District 7 to new District 5 compensated District 5 for its population shifts to new District 6. As a result, meeting population equality requirements in the western region impinged on the rest of the Commonwealth only in the City of Charlottesville-Albemarle County area of present District 7.

Hampton Roads, Central and Eastern Virginia

This area includes present Districts 1, 2, 3, and 4. Each of the present congressional districts exceeded the ideal population, and the total excess population for the region was 219,689. Changes made by Chapter 6 also involve portions of present District 7.

A major reason for changes in this region, other than to meet population standards, was the establishment of a district with black majority total (63.98 percent) and voting age (61.17 percent) populations. This new congressional district, designated District 3, draws black population concentrations from each of the four present districts and is described in detail in Attachment 4. The portions of new District 3 contributed by each of the present congressional districts are as follows:

District 1	36.1 percent
District 2	14.6 percent
District 3	35.4 percent
District 4	13.9 percent

No incumbent member of Congress resides in new District 3.

The dominant share of the population of present District 3, a total of 404,842, now is contained in new District 7. The remaining localities in new District 7 are drawn from present District 7. The incumbent Congressmen from present Districts 3 and 7 both reside in new District 7.

Present District 1 also is significantly affected by creating the black majority district. To restore population equality for District 1, portions of present District 7 (part of

Hanover, Spotsylvania and Stafford Counties, and portions of the City of Fredericksburg) and present District 8 (portions of Stafford County) shift to new District 1.

New District 4 is compensated for its shift of population to new District 3 by adding population from present District 7 (Goochland and Louisa Counties), present District 3 (portions of Chesterfield County), and present District 2 (portions of the City of Virginia Beach). Predominantly black precincts in Norfolk were shifted from present District 2 to new District 3 without any necessary population adjustments for District 2.

#### Northern Virginia

This area includes present Districts 7, 8, and 10. (While only part of present District 7 actually is situated in the Northern Virginia metropolitan area, that district is directly involved in the changes affecting the Washington, D.C. suburbs.) The combined population for this fast growing area exceeded the ideal for three districts by 408,849.

The most notable change in this area is the creation of a new open congressional district, designated District 11, from portions of present Districts 8 and 10. District 11 includes approximately one-half the population of Fairfax County, all of the City of Fairfax, and most of eastern Prince William County.

District 8, in turn, is redrawn to become an "inner" Northern Virginia district situated east of new District 11. Arlington County, the City of Falls Church, and the McLean area of Fairfax County shift from present District 10 to join

Alexandria and eastern and southeast Fairfax County in new District 8.

New District 10 becomes the Northern Virginia "outer" district, with over 60 percent of its population drawn from northern and western Fairfax County, western Prince William County and the two small cities it surrounds (Manassas and Manassas Park), and Loudoun County. The balance of new District 10 is comprised of localities to the west, in the Northern Piedmont and lower Shenandoah Valley, all of which were in present District 7.

Finally, new District 7 is composed predominantly of population (404,842) from present District 3. New District 7 includes 157,660 people drawn from Central Virginia localities which were in present District 7. The balance of present District 7 is dispersed to new Districts 1, 4, and 5 as described previously.

A list of equivalent old and new districts, showing the names of incumbent members of Congress, is attached.



LIST OF EQUIVALENT OLD AND NEW DISTRICTS

<u>Present Districts</u>		<u>Chapter 6</u>	
<u>District</u>	<u>Incumbent</u>	<u>District</u>	<u>Incumbent</u>
1.	Herbert H. Bateman (R) - Newport News	1.	Herbert H. Bateman (R) - Newport News
2.	Owen B. Pickett (D) - Virginia Beach	2.	Owen B. Pickett (D) - Virginia Beach
3.*	Thomas J. Bliley, Jr. (R) - Richmond City	3.	None
4.	Norman Sisisky (D) - Petersburg	4.	Norman Sisisky (D) - Petersburg
5.	L. F. Payne, Jr. (D) - Nelson County	5.	L. F. Payne, Jr. (D) - Nelson County
6.	James R. Olin (D) - Roanoke City	6.	James R. Olin (D) - Roanoke City
7.	George F. Allen (R) - Albemarle County	7.	Thomas J. Bliley, Jr. (R) - Richmond City  George F. Allen (R) - Albemarle County
8.	James P. Moran (D) Alexandria	8.	James P. Moran (D) - Alexandria
9.	Frederick C. Boucher (D) - Washington County	9.	Frederick C. Boucher (D) - Washington County
10.	Frank R. Wolf (R) - Fairfax County	10.	Frank R. Wolf (R) - Fairfax County
		11.	None

\*New District 3 is composed of portions of present Districts 1, 2, 3, and 4; only 32 percent of present District 3 is in the new district. Most of present District 3 (65.1 percent) is in new District 7.

**ATTACHMENT 4**

**STATEMENT OF ANTICIPATED MINORITY IMPACT**

Virginia's first congressional district with a majority black total and voting age population was created by Chapter 6, 1991 Va. Acts (Spec. Sess. II). New District 3 contains a total black population of 63.98 percent and a black voting age population of 61.17 percent, percentages which the General Assembly felt ensured that black voters in the Commonwealth will be able to elect candidates of their choice. No incumbent member of Congress resides in new District 3.

As described in Attachment 3, new District 3 was created from predominantly black portions of four of Virginia's present congressional districts: Districts 1, 2, 3, and 4. The share of new District 3 drawn from each of these present districts is as follows:

District 1	36.1 percent
District 2	14.6 percent
District 3	35.4 percent
District 4	13.9 percent

An attached chart gives a more detailed description of new District 3.

Moving black population into new District 3 unavoidably reduced the black total and voting age populations in surrounding congressional districts. (A list of present and new districts showing black total and voting age populations also is

attached). In spite of this unavoidable reduction, however, new District 4 remains a black influence district with a total black population of 32.09 percent and a black voting age population of 30.66 percent. In addition, Virginia's new congressional reapportionment slightly enhances the minority influence in new District 5. New District 5 has a total black population of 24.71 percent and a black voting age population of 22.86 percent.

Virginia has no statistically significant concentrations of other racial, Hispanic, or language minority populations.

## COMPONENTS OF CHAPTER 6 DISTRICT 3

This chart shows the relationship between present congressional Districts 1, 2, 3, and 4 and creation of a black majority district, designated District 3, in Chapter 6. It shows for each district (1) the part included in New District 3 and (2) adjustments to compensate the district for the population shifted to District 3.

**A. Present District 1**1. Included in Chapter 6 District 3

	<u>Total</u>	<u>Black</u>
Charles City	6,282	3,969
Essex	8,689	3,270
James City (part)	7,632	1,529
King and Queen	6,289	2,633
King William	10,913	3,310
New Kent	10,445	2,151
Richmond County	7,273	2,194
Hampton (part)	63,378	38,822
Newport News (part)	82,334	43,101
<b>TOTAL</b>	<b>203,235</b>	<b>100,979</b>
Percent of District 3	36.13%	28.06%

2. Adjustments Required to District 1

Added to bring District 1 within population deviation:

	<u>Total</u>	<u>Black</u>
Hanover (part)	34,842	3,598
Spotsylvania (part)	35,525	3,481
Stafford	61,236	4,304
Fredericksburg	19,027	4,115
<b>TOTAL</b>	<b>150,630</b>	<b>15,498</b>

3. Statistical:

	<u>Present</u>	<u>Chapter 6</u>
Total Population	615,085	562,480
Percent Deviation	+ 9.35%	0.00%
Total Black	30.34%	17.98%
VAP Black	28.63%	16.87%

**B. Present District 2**1. Included in Chapter 6 District 3

	<u>Total</u>	<u>Black</u>
Norfolk (part)	81,867	61,904
Percent of District 3	14.55%	17.20%

2. Adjustment Require in District 2

No additional population required to offset loss of part of Norfolk

3. Statistical:

	<u>Present</u>	<u>CHAPTER 6</u>
Total Population	654,298	562,490
Deviation	+16.32%	0.00%
Total Black	23.95%	16.64%
VAP Black	22.41%	15.51%

C. Present District 31. Included in Chapter 6 District 3

	<u>Total</u>	<u>Black</u>
Henrico (part)	54,329	30,902
Richmond City (part)	<u>144,740</u>	<u>106,373</u>
TOTAL	199,069	137,275
Percent of District 3	35.39%	38.14%

2. Adjustments Required in District 3

18,150 (5,203 black) Chesterfield added to District 4. The balance of present District 3 is in Chapter 6 District 7 as follows:

	<u>Total</u>	<u>Black</u>
Chesterfield (part)	182,974	19,162
Henrico (part)	163,552	12,925
Richmond City (part)	<u>58,316</u>	<u>5,749</u>
TOTAL	404,842	37,836

3. Statistical

Not Applicable

D. Present District 41. Included in Chapter 6 District 3

	<u>Total</u>	<u>Black</u>
Prince George (part)	1,877	313
Surry	6,145	3,411
Hopewell (part)	3,652	3,078
Petersburg (part)	24,756	20,370
Portsmouth (part)	38,871	31,671
Suffolk (part)	<u>3,002</u>	<u>896</u>
TOTAL	78,303	59,739
Percent of District 3	13.92%	16.50%

2. Adjustments Required in District 4

Added to bring District 4 within population deviation

	<u>Total</u>	<u>Black</u>
Chesterfield (part)	18,150	5,203
Goochland	14,163	4,210
Louisa	20,325	5,233
Virginia Beach (part)	<u>9,941</u>	<u>1,174</u>
TOTAL	62,579	15,820

3. Statistical

	<u>Present</u>	<u>Chapter 6</u>
Total Population	578,193	562,469
Percent Deviation	+2.79%	0.00%
Total Black	38.81%	32.09%
VAP Black	36.95%	30.66%

**BLACK PERCENT OF POPULATION OLD AND NEW DISTRICTS  
(1990 CENSUS)**

<u>Number</u>	<u>Present District</u>		<u>Chapter 6 District</u>	
	<u>Total</u>	<u>Voting Age</u>	<u>Total</u>	<u>Voting Age</u>
1.	30.34	28.63	17.98	16.87
2.	23.95	22.41	16.64	15.51
3.	28.99	27.13	63.98	61.17
4.	38.81	36.95	32.09	30.66
5.	23.86	22.11	24.71	22.86
6.	11.18	10.36	11.49	10.62
7.	10.76	10.34	10.08	9.44
8.	11.89	11.36	13.36	12.47
9.	2.60	2.53	2.48	2.42
10.	7.17	6.78	5.77	5.57
11.	N.A.	N.A.	8.18	7.46

**ATTACHMENT 5**

**STATEMENT IDENTIFYING PAST OR PRESENT LITIGATION  
CONCERNING THE CHANGE OF RELATED VOTING PRACTICES**

**Present Litigation**

At the time of this submission, the Office of the Attorney General of Virginia has not been served with pleadings commencing litigation concerning the change in congressional districts provided in Chapter 6, 1991 Va. Acts (Spec. Sess. II) ("Chapter 6").

Pursuant to 28 C.F.R. § 51.19, the Office of the Attorney General of Virginia will notify and provide the Chief, Voting Section, Civil Rights Division, Department of Justice, with copies of any pleadings subsequently received that commence litigation concerning the change in congressional districts provided in Chapter 6.

**Past Litigation**

Va. Code § 24.1-4.3, containing current congressional districts for Virginia, was last amended by the Virginia General Assembly on February 21, 1985 and was last precleared by the Department of Justice on June 26, 1985. No litigation followed the enactment of § 24.1-4.3 by Ch. 8, 1981 Va. Acts (Special Session) or its amendment by Ch. 12, 1985 Va. Acts (Reg. Sess.).

**ATTACHMENT 6:** SHOWING TOTAL AND VOTING AGE POPULATION BY RACE FOR EACH DISTRICT UNDER PRESENT CODE §24.1-4.3 IS CONTAINED IN SEPARATELY LABELLED BINDER NO. 1.



**ATTACHMENT 7:** SHOWING TOTAL AND VOTING AGE POPULATION BY RACE FOR EACH DISTRICT UNDER 1991 VIRGINIA ACTS. CH. 6 IS CONTAINED IN SEPARATELY LABELLED BINDER NO. 2.

**ATTACHMENT 8:** SHOWING THE NUMBER OF REGISTERED VOTERS IN VIRGINIA BY PRECINCT AS OF NOVEMBER, 1991, IS CONTAINED IN SEPARATELY LABELLED BINDER NO. 3.

**ATTACHMENT 9:** MAPS SHOWING PRIOR AND NEW DISTRICT BOUNDARIES AND THE LOCATIONS OF RACIAL MINORITY GROUPS ARE CONTAINED IN SEPARATELY LABELLED BINDER NO. 4.

**ATTACHMENT 10:** SHOWING STATEWIDE ELECTION RETURN DATA FOR THE 1990 U.S. CONGRESSIONAL ELECTIONS AND THE 1991 VIRGINIA SENATE AND HOUSE OF DELEGATES ELECTIONS ARE CONTAINED IN SEPARATELY LABELLED BINDER NO. 5.

**ATTACHMENT 11:** SHOWING A SAMPLING OF NEWS ARTICLES PERTAINING TO THE 1991 VIRGINIA CONGRESSIONAL REDISTRICTING PROCESS IS CONTAINED IN SEPARATELY LABELLED BINDER NO. 6.

The Honorable L. Douglas Wilder\*  
The Governor of Virginia  
Third Floor State Capitol  
Richmond, VA 23219

The Honorable Donald S. Beyer, Jr.\*  
Lieutenant Governor of Virginia  
Office of Lieutenant Governor  
Supreme Court Bldg., 101 N. Eighth St.  
Richmond, VA 23219

The Honorable Mary Sue Terry\*  
Attorney General of Virginia  
Supreme Court Building  
101 North Eighth Street  
Richmond, VA 23219

The Honorable Michael G. Brown\*  
Secretary of the State Board of  
Elections, Room 101  
Ninth Street Office Building  
Richmond, VA 23219

The Honorable Joseph H. Holtzman, Jr.\*  
Clerk of the House  
State Capitol Bldg.  
Richmond, VA 23219

The Honorable Susan W. Clarke\*  
Clerke of the Senate  
State Capitol, 2nd Floor  
Richmond, VA 23219

The Honorable William P. Robinson, Jr.  
Chairman, The Black Caucus of the  
General Assembly  
255 West Freemason Street  
Norfolk, VA 23510

Jack W. Gravelley, President  
Virginia Chapter - NAACP  
P.O. 27212  
Richmond, VA 23261

Linda Byrd-Harden, Executive Secretary  
Virginia Chapter-NAACP  
P.O. Box 27212  
Richmond, VA 23261

The Reverend Curtis W. Harris  
A.C.L.C.  
100 North Main Street  
Hopewell, VA 23860

Julie Lapham  
Common Cause of Virginia  
6 North 6th Street  
Richmond, VA 23219

R. Kent Willis  
American Civil Liberties Union  
6 North 6th Street  
Suite 2  
Richmond, VA 23219

Virginia Young, Pres.  
League of Women Voters  
810 Beaufegard St., B-2  
Alexandria, VA 22312

Celeste Dudley  
Virginia League of Women Voters  
P.O. Box 749  
Gloucester, VA 23061

Phyllis Bailey  
League of Women Voters  
434 Highland Avenue, S.W.  
Roanoke, VA 24016

Elizabeth Leah, President  
Virginia Voter Registrars' Association  
General Registrar Roanoke Co.  
P.O. Box 20884  
Roanoke, VA 24018-0089

R. Michael Amyx  
Virginia Municipal League  
13 East Franklin Street  
P.O. 12203  
Richmond, VA 23241

Ellen Davenport, Acting Director  
Virginia Association of Counties  
1001 East Broad Street  
Suite 20  
Richmond, VA 23219

Larry L. Lowers  
Lectural Boards Assoc.  
1100 Maryland Ave.  
Cherandoah, VA 22849

William H. Coiner  
Vice President of Human Resources  
Virginia Manufactures Association  
P.O. Box 412  
Richmond, VA 23203

Virginia Chamber of Commerce  
David B. Brown  
9 South 5th Street  
Richmond, VA 23219

Paul Goldman, Chairman  
Democratic Party of Virginia  
3001 E. Broad St., Suite LL25  
Richmond, VA 23219

Donald W. Huffman, Chairman  
Republican Party of VA  
115 E. Grace Street  
Richmond, VA 23219

Harry S. Carver, Executive Director  
Democratic Party of Virginia  
1001 East Broad Street  
Richmond, VA 23219

Joe Elton, Director  
Republican Party of Virginia  
1515 East Grace Street  
Richmond, VA 23219

Steve Haner  
Joint Legislative Republican Caucus  
115 E. Grace Street  
Richmond, VA 23219

Professor Minnett Hagens  
Department of Political Science  
Norfolk State University  
2401 Corprew Avenue  
Norfolk, VA 23504

Dr. Rudolph Wilson  
Department of Political Science  
Norfolk State University  
12401 Corprew Avenue  
Norfolk, VA 23504

Chris Spanos  
707 Keats Road  
Richmond, VA 23229

Carole Noe  
U.Va. Center for Public Service  
Suite 340-A, 1001 E. Broad Street  
Richmond, VA 23219

Jim Cox  
CPI  
2001 E. Main Street  
Richmond, VA 23219

Jo Ann M. Spevacek  
Government Relations  
Northern Virginia Planning District Comm  
7535 Little River Turnpike, Suite 100  
Annadale, Vi 22003

Sally B. Ormsby  
9114 Coronado Terrace  
Fairfax, VA 22031

Deusan E. Mittereder  
Legislative Liaison  
County of Fairfax  
1100 Chain Bridge Road  
Fairfax, VA 22030

Joann Conner  
P.O. Box 590  
Varona, VA 24482

Francis O'Leary  
Treasurer, Arlington Co.  
Suite 201  
2100 Clarendon Blvd.  
Arlington, VA 22216

Monica Horan  
1031 University Dr., #301  
Fairfax, VA 22030

Carter Glass, IV, Esq.  
Mays and Valentine  
P.O. Box 1122  
Richmond, VA 23208

Ruth C. Beam, Chairman  
Augusta County Electoral Board  
HCR 32  
Box 10  
Staunton, VA 24401

Barry Francis Houff  
Fairwood Apartments  
Apt G-7  
Staunton, VA 24401

E. Lionel Mooman  
P.O. Box 106  
Greenville, VA 24440

Dennis W. Johnson  
Johnson Research Associates  
4429 Yuma Street, N. W.  
Washington, DC 20016

Frett Blackledge  
1883 Commercial Drive  
Springfield, VA 22159

Thomas Whipple  
3556 N. Valley Street  
Arlington, VA 22207

Mary Jo Fields  
P.O. Box 12203  
Richmond, VA 23229

Bun Chaney Sr.  
11 Lee Avenue  
Highland Springs, VA 23075

E. R. Boisseau  
Election Bd., Co. of Henrico  
8904 Wishart Road  
Richmond, VA 23229

George Martin, Esq.  
McGuire, Woods, Battle & Boothe  
One James Center  
Richmond, VA 23219

Mark E. Rush  
Assistant Professor of Politics  
Washington and Lee University  
Lexington, VA 24450

League of Women Voters  
Fairfax Area Hdqtrs.  
4026 Hummer Road  
Annandale, VA 22003

Mrs. Barbara Thompson  
Registrar, Co. of Henrico  
P.O. Box 27032  
Richmond, VA 23273

John Henderson  
Office of the City Attorney  
City Hall  
P.O. Box 178  
Alexandria, VA 22314

Barbara Gordon  
City of Falls Church  
300 Park Quenne  
Falls Church, VA 22046

Michael Campilongo  
Office of the City Attorney  
City of Alexandria  
City Hall, P.O. Box 178, 301 King St.  
Alexandria, VA 22314

Robert Stalzer  
Town Manager  
Edmon Hall, P.O. Box 427  
Herrndon, VA 22070

John Cartwright  
City Manager  
P.O. Box 560  
9027 Center Street  
Manassas, VA 22110

Vivian Baltz  
10455 Armstrong St.  
Fairfax, VA 22030

Steve Brown  
Assistant Town Manager  
Box 88  
Leesburg, VA 22075

Diane Jemmolt  
Office of County Manager  
2100 Clarendon Blvd., #302  
Arlington, VA 22201

Memory Porter  
County Administrator's Office  
18 North King St.  
Leesburg, VA 22075

Pierce Homer  
Office of County Executive  
Pine County Complex Court  
Prince William, VA 22192

Michael Long  
Assistant County Attorney  
4100 Chain Bridge Road  
Fairfax, VA 22030

Janet Howell  
1420 Aldenham Lane  
Reston, VA 22090

David Goodall, Sr.  
3308 Flint Hill Pl.  
Richmond, VA 23227

Ada T. Parashar  
5210 Hollymead Rd.  
Richmond, VA 23223

Sandee Levin  
8914 Traditional Dr.  
Richmond, VA 23294

Jr. Louis J. Danish, MD  
4808 Three Chopt Rd.  
Richmond, VA 23229

Victoria Mitchell  
3415 Meadow Rd.  
Sandston, VA 23150

Beth Anne E. Hayes  
216 Melwood Lane  
Richmond, VA 23229

Carol S. Headley  
6709 Bedell Road  
Richmond, VA 23229

Doanld O. (Spec) Campen, Jr.  
7603 Hillside Avenue  
Richmond, VA 23229

Bedros C. Bandazian  
2 Foxmere Dr.  
Richmond, VA 23233



Dr. Leon Bouvier  
NSU Redistricting Research Collaborative  
8817 Huey Ct.  
Virginia Beach, VA 23456

Mr. William A. Forrest, Jr.  
General Counsel  
Republican Party of Virginia  
203 Banbury Road  
Richmond, VA 23221

Mrs. Mary Vaughan Gibson  
President, Virginia Federation of  
Republican Women  
1383 Haislam Circle  
Midlothian, VA 23113

Mrs. Terri Hauser  
President, Young Republican  
Federation of Virginia  
501 Slater's Lane, #801  
Alexandria, VA 22314

Mrs. Barbara Moak  
Western Vice Chairwoman  
Republican Party of Virginia  
400 Ednam Road  
Charlottesville, VA 22901

Virginia Farm Bureau  
200 West Grace Street  
Richmond, VA 23219

Mr. Bobby Puri  
President, College Republican  
Federation of Virginia  
5504 Cordwood Court  
Burke, VA 22015

Mrs. Ann Williams  
Eastern Vice Chairwoman  
Republican Party of Virginia  
813 Riverside Drive  
Newport News, VA 23606

Mr. David A. Johnson  
Eastern Vice Chairman  
Republican Party of Virginia  
8106 University Drive  
Richmond, VA 23229

Mr. Franklin E. Hall  
Western Vice Chairman  
Republican Party of Virginia  
42 Lunar Road, P.O. Box 381  
Smithfield, VA 23430

Dr. Larry Sabato  
University of Virginia  
Charlottesville, VA 22904

Mr. Richard Pulley  
Virginia Education Association  
116 South 3rd Street  
Richmond, VA 23219

Mrs. Mary LaMois, Chair  
Alexandria Electoral Board  
14 Jamez's Lane  
Alexandria, VA 22302

The Honorable Richard G. Hobson  
99 N. Quaker Lane  
Alexandria, VA 22304

Alan Fogg  
6883 Commercial Dr.  
Springfield, VA 22159

John Schofield  
Senior Asst. to the County Executive  
County of Prince William  
County Complex Court  
Prince William, VA 22192-9201

The Honorable Audrey Moore  
Chairman, Fairfax County Board of  
Supervisors  
4100 Chain Bridge Rd.  
Fairfax, VA 22030

The Honorable Gerald W. Hyland  
Supervisor, Mt. Vernon District  
2511 Parkers Lane  
Alexandria, VA 22310

The Honorable Joseph Alexander  
Supervisor, Lee District  
14121 Franconia Road  
Alexandria, VA 22310

Mr. Harris N. Miller, Chairman  
Fairfax County Democratic Committee  
1309 Summerwood Ct.  
McLean, VA 22102

Ms. Marilyn Boren  
Vice-Chair, Eighth District  
Fairfax County Democratic Committee  
P.O. Box 359  
Fairfax Station, VA 22039

Ms. Eve Wilson  
Vice-Chair, Tenth District  
Fairfax County Democratic Committee  
6726 Bridle Path Lane  
McLean, VA 22101

Ms. Maggi Luca, Chair  
Annandale Democratic Committee  
8620 Parliament Drive  
Springfield, VA 22151

Ms. Carol Swift, Chair  
Centreville Democratic Committee  
2341 Riviera Drive  
Vienna, VA 22180

Ms. Sue Rosenberg, Chair  
Martinsville Democratic Committee  
304 Shouse Drive  
Vienna, VA 22182

Mr. Jack Knowles, Co-Chairman  
Mt. Vernon Council of Civic Assns.  
8712 Linton Lane  
Alexandria, VA 22308

Mr. John Rosenthal, Chair  
Lee Democratic Committee  
5805 Bush Hill Drive  
Alexandria, VA 22310

Mr. Larry Byrne, Chair  
Mason Democratic Committee  
442 Queen Anne Terr.  
Galls Church, VA 22041

Ms. Betsy Alexander, Chair  
Mt. Vernon Democratic Committee  
8721 Bluedale Street  
Alexandria, VA 22308

Ms. Earnestine Heastie, Chair  
Providence Democratic Committee  
3006 Spice Ct.  
Vienna, VA 22180

Ms. Sue McGrady, Chair  
Springfield Democratic Committee  
371 Peter Roy Ct.  
Burke, VA 22015

Mr. George Rawlings, Chair  
Eighth District Democratic Committee  
5904 Oak Grove Ct.  
Lorton, VA 22079

Mr. Dan Alcorn, Chair  
Tenth District Democratic Committee  
2112 Gallows Rd., #C  
Vienna, VA 22180

Mr. Phillip Chabot, Co-Chairman  
Mt. Vernon Council of Civic Assns.  
868 Midday Lane  
Alexandria, VA 22306

Mr. Rudy Daus, Co-Chairman  
Mt. Vernon Council of Civic Assns.  
4201 Robertson Blvd,  
Alexandria, VA 22309

Mr. Fred Morin, Chair  
Lee District Assn. of  
Civic Organizations  
6530 Hackberry street  
Springfield, VA 22150

Dr. Marlene Hager  
P.O. Box 6247  
Virginia Beach, VA 23456-0247

Dr. Calvin Miller  
Executive Director, VABEO  
Virginia State University  
Box 30  
Petersburg, VA 23803

Loren Mitchell  
Tazewell County Free Press  
P.O. 4305  
Richlands, VA 24641

Steve Hanar  
100 E. Main Street  
Box 1607  
Richmond, VA 23219

Elizabeth Fox  
City Attorney's Office  
Municipal Center  
Virginia Beach, VA 23456-9002

Jeff E. Schapiro  
c/o Richmond Times-Dispatch  
333 E. Grace Street  
Richmond, VA 23219

Mr. Donaldson  
Va. News Network  
1345 Basie Road  
Richmond, VA 23228

Bonnie Winston  
Virginia-Pilot  
1001 E. Broad Street  
Suite 340  
Richmond, VA 23219

Carole A. Sequia, Registrar  
Gloucester County  
Clayton Building, Court Green  
P.O. Box 208  
Gloucester, VA 23061-0208

Robert L. Marble, Secretary  
Gloucester Board of Elections  
P.O. Box 1154  
Gloucester, VA 23061

Anne Gordon Greever  
Huntton & Williams  
P.O. Box 1535  
Richmond, VA 23212

Erceell W. Cowan  
General Registrar  
City of Martinsville  
P.O. Box 1323  
Martinsville, VA 24114

Ms. Beverly Beidler  
City of Alexandria  
Registrar of Voters  
421 King Street, Rm 300  
Alexandria, VA 22314

Betty Jeter  
P.O. Box 365  
Dinwiddie, VA 23841

Leonard K. Ponder  
Planning Director  
P.O. Drawer 70  
Dinwiddie, VA 23841

Gandy Blackwell  
4810 Beauregard St., #306  
Alexandria, VA 22312

Clayton Roberts  
Virginia Free Plantation House  
1108 E. Main St.  
Suite 1000  
Richmond, VA 23219

Daniel M. Siegel  
P.O. Box 506  
Richmond, VA 23204

John Cooley  
Anderson and Associates  
400 Ardmore Street  
Blacksburg, VA 24060

William M. Hackworth  
County Attorney  
Post Office Box 532  
224 Ballard Street  
Yorktown, VA 23690

Bill Miller  
University Publications Office  
D 217 Mason Hall  
Fairfax, VA 22030

Gandy Miller  
Guys & Valentine  
P.O. Box 1122  
Richmond, VA 23208

Ms. Frazier Whitehead  
Copywriters  
410 W. Franklin Street  
Richmond, VA 23220

John W. Lee  
WVIR TV  
503 E. Market Street  
Charlottesville, VA 22901

Sally Thomas  
President, Charlottesville  
League of Women Voters  
401 West Leigh Drive  
Charlottesville, VA 22901

Pat Graham  
Arundel Newspapers  
1760 Reston Parkway  
Reston, VA 22190

Georgia (Katy) Cannady, President  
League of Women Voters, Alexandria  
1103 Dartmouth Road  
Alexandria, VA 22314

Patricia C. Lewis, President  
League of Women Voters, Clarke County  
Route 3, Box 5807  
Harrisonville, VA 22611

Peg Jones, President  
League of Women Voters, Falls Church  
325 Little Falls Street  
Falls Church, VA 22046

Teddie Jo Ryan, President  
League of Women Voters  
Hampton/Newport News  
60 Eastmoreland Drive  
Hampton, VA 23669

Marlene M. Mickey, President  
League of Women Voters, Arlington  
1425 South 19th Street  
Arlington, VA 22204

Winnie Shapiro, President  
League of Women Voters, Fairfax  
10424 Collingham Drive  
Fairfax, VA 22032

Eunice Hyer, Co-President  
League of Women Voters  
Gloucester/Mathews  
Blakes, VA 23020

Leonor Lowe, President  
League of Women Voters  
Henderson County  
Route 1, Box 305  
Round Hill, VA 22141

Judy Snook, President  
League of Women Voters  
Montgomery County  
2811 Mt. Vernon Lane  
Blacksburg, VA 24060

Cyndy Bourquard, President  
League of Women Voters  
Norfolk/Virginia Beach  
3113 Lynn Acres Road  
Virginia Beach, VA 23452



Bonnie Reynolds, President  
League of Women Voters  
Richmond Metro Area  
1508 Edenbury Drive  
Richmond, VA 23233

Dorothy Cecil, President  
League of Women Voters  
Rockbridge Area  
7 Wallace  
Lexington, VA 24450

Jan Woodward, President  
League of Women Voters  
Williamsburg  
105 Northpoint Road  
Williamsburg, VA 23185

Sandy Welsh  
Route 1, Box 164-A  
Totterburg, VA 22511

Valerie Fillingrove  
1608 Scottish Court  
Virginia Beach, VA 23464

Kay Greenwood, President  
League of Women Voters  
Lynchburg  
Route 4, Box 291  
Lynchburg, VA 24503

Pat Brady, President  
League of Women Voters  
National Capital Area  
8528 Greeley Blvd.  
Springfield, VA 22152

Susie Fetter, Chairman of Board  
League of Women Voters  
Roanoke Area  
2923 Carolina Avenue  
Roanoke, VA 24014

Dorothy Jones, President  
League of Women Voters  
Waynesboro  
806 Kent Road  
Waynesboro, VA 22980

Deisy Campbell  
Route 2, Box 306  
Lulpeper, VA 22701

Anne Clare  
1600 N. Oak St. #320  
Arlington, VA 22209

Ann J. Washington  
Registrar of Voters  
Room 808 City Hall Building  
Norfolk, VA 23510

Alice C. Hartis  
Route 1, Box 169 D  
Blasgow, VA 24555

Walter H. Ryland  
P.O. Box 1320  
Richmond, A 23210

Leanne Shank, Esq.  
Natk'n, Heslip, Siegel & Natkin  
P.O. Box 4205  
Lexington, VA 24450

Aurora Bateman  
Commonwealth Gas Services  
P.O. Box 35800  
Richmond, VA 23235

Christa Walters  
Mt. Vernon Gazette  
717 N. St. Asaph Street  
Alexandria, VA 22134

Laurie Kellman  
Prince William Journal  
13199 Centerpointe Way  
Dale City, VA 22193

Andrea Bryant  
Public Affairs Officer  
Henrico County  
P.O. Box 27032  
Richmond, VA 23273

Fred M. Ingram, Chairman  
Board of Supervisors  
Staunton River District  
Route 2, Box 463  
Gretna, VA 24557

Samuel W. Swanson, Jr., Vice Chairman  
Board of Supervisors  
Dan River District  
Route 2, Box 739  
Ringgold, VA 24586

Edwin R. Shields  
Board of Supervisors  
Blair's District  
Route 2, Box 19  
Dry Fork, VA 24549

G.M. "Tink" Richardson, Sr.  
Board of Supervisors  
Westover District  
3536 Westover Drive  
Danville, VA 24541

F.A. Keatts  
Board of Supervisors  
Tunstall District  
Route 6, Box 2256  
Danville, A 24541

Lionel L. Reynolds  
Board of Supervisors  
Halland-Gretna District  
Route 1, Box 600  
Pittsville, VA 24139

Roy P. Byrd, Jr.  
Board of Supervisors  
Chatham District  
Route 2, Box 24-D  
Chatham, VA 24531

W. Carrington Thompson  
County Attorney  
County Administrator's Office  
P.O. Box 426  
Chatham, VA 24531

William D. Sleeper  
County Administrator  
P.O. Box 426  
Chatham, VA 24531

Dawn Darrington  
Redistricting Staff  
County Administrator's Office  
P.O. Box 426  
Chatham, VA 24531

Vincent Vala  
Culpepper Star Exponent  
P.O. Box 111  
Culpepper, VA 22701

Darry Evans  
Free Lance Star  
616 Amelia Street  
Fredericksburg, VA 22401

Jim Toler  
Free Lance Star  
616 Amelia Street  
Fredericksburg, VA 22401

Dick Frank  
West Fairfax Co. Citizens Assoc.  
P.O. Box 357  
Centerville, VA 22020

Mike Hardy  
Richmond Times Dispatch  
833 East Grace Street  
Richmond, VA 23219

Sharon E. Pandak  
Prince William County Attorney  
1 County Complex Court  
Prince William, VA 22192

E. Joseph West  
Apt. 811 South  
5501 Seminary Road  
Falls Church, VA 22041

Tom Matthes  
News Director  
WQRA Radio  
P.O. Box 1157  
Warrenton, VA 22186

Ms. Elise Hines  
2728 North Fillmore Street  
Arlington, VA 22207

Michael E. Beliefski  
9824 Southpark Circle  
Fairfax Station  
Fairfax, VA 22039

John C. Goolrick  
104 Princess Anne Street  
Suite 203  
Fredericksburg, VA 22404

Charles J. Cooper  
Shaw, Pittman, Potts  
and Trowbridge  
2300 N Street, N.W.  
Washington, DC 20037

Henrico County Attorney's Office  
P.O. Box 27032  
Richmond, VA 23273

Ms. Barbara Poindexter  
Citizens for a Better America  
Bldg. 1 Box 34  
Pittsville, VA 24577

Frank M. Ruff  
P.O. Box 332  
Clarksville, VA 23927

Sue Gilbert  
Administrative Analyst  
Bedford County  
P.O. Box 332  
Bedford, VA 24523

Berry Lovelace  
Halifax County Planning Dir.  
P.O. Box 786  
Halifax, VA 24558

Sue Anderson  
2117 Popkins Lane  
Alexandria, VA 22307

Cora Tucker  
Citizens for a Better America  
P.O. Box 356  
Halifax, VA 24558

Dr. Marvin Loughren  
Rt. 1 Box 794  
Poores Mill, VA 24065

Patti Booker  
Assistant for Special Projects  
P.O. Box 100  
Rustburg, VA 24588

Mary Catherine Plaster  
Legislative Aide for  
C.R. Hawkins, 21st District  
Box 818  
Chatham, VA 24531

Bob Dowd, WPPDC  
One Starling Avenue  
Martinsville, VA 24112

Barbar Gordon PIO  
City of Falls Church  
300 Park Avenue  
Falls Church, VA 22046

Paul W. Jacobs, II, Esq.  
Christian, Barton  
1200 Mutual Building  
Richmond, VA 23219

Dr. Thomas R. Morris  
Dept. of Political Science  
University of Richmond  
Richmond, VA 22173

Steven Miner  
County of Culpepper  
114 N. West Street  
Culpepper, VA 22701

Herschel Kanter  
5726 N. 28th Street  
Arlington, VA 22207

John Valuzzo  
797 Mansway Drive  
Merndon, VA 22071

Dianne Martin  
3400 Hanover Avenue  
Richmond, VA 23221

Mr. Jack Hurt  
3416 Rustic Way Lane  
Falls Church, VA 22044-1243

Robert Bidwell  
1503 Bluebell Lane  
Alexandria, VA 22307

Mr. Doug Chapin  
Election Data Services  
1400 I Street N.W., Suite 1225  
Washington, DC 20005-2208

Robert A. Rogers  
11443 Stone Mill Court  
Oakton, VA 22124

Steven B. Pickett  
U.S. House of Representatives  
204 Longworth House Office Bldg.  
Washington, DC 20515

Norman Sisisky  
U.S. House of Representative  
426 Cannon House Office Bldg.  
Washington, DC 20515

James Randolph Olin  
U.S. House of Representatives  
1314 Longworth House Office Bldg.  
Washington, DC 20515

James P. Moran, Jr.  
United States House of Representatives  
1523 Longworth House Office Bldg.  
Washington, DC 20515

Frank Wolf  
United States House of Representatives  
104 Cannon House Office Bldg.  
Washington, DC 20515

John Warner  
The United States Senate  
225 Russell Senate Office Bldg.  
Washington, DC 20510

Herbert H. Bateman  
U.S. House of Representatives  
2230 Longworth House Office Bldg.  
Washington, DC 20515

Thomas J. Bittley, Jr.  
U.S. House of Representatives  
2241 Rayburn House Office Bldg.  
Washington, DC 20515

L.F. Payne, Jr.  
U.S. House of Representatives  
1720 Longworth House Office Bldg.  
Washington, DC 20515

Il. French Slaughter, Jr.  
U.S. House of Representative  
1404 Longworth House Office Bldg.  
Washington, DC 20515

Frederick C. Boucher  
U.S. House of Representatives  
428 Cannon House Office Bldg.  
Washington, DC 20515

John I. Morton  
113 Anesbury Court  
Alexandria, VA 22308

Virginia Room  
Fairfax City Regional Library  
1915 Chain Bridge Road  
Fairfax, VA 22030

Mr. Marcus Majors  
Hanover Planning Department  
P.O. Box 470  
Hanover, VA 23069

Jim Heilman  
Registrar of Voters  
Co. of Albemarle  
401 McIntire Road  
Charlottesville, VA 22901

Jean Connaughton  
18511 Cabin Road  
Fairfax, VA 22172

Carol R. Foster  
Manager Government Relations  
Chesapeake Corporation  
P.O. 2350  
Richmond, VA 23218-2350

Douglas A Gray  
4372 N. Pershing Dr. #3  
Arlington, VA 22203

Hugh Gordon  
1229 Norfolk Lane  
Halls Church, VA 22042

Mr. Hud Crosdale  
7762 Black Horse Court  
Manassas, VA 22110

Jim Reed  
Rt. 1 Box 732  
Stevenson, VA 22656

Jim Reed  
1320 Old Chainbridge Rd.  
McLean, VA 22101

Max Stephenson  
College of Architecture  
and Urban Studies  
VPI & SU  
Blacksburg, VA 24061-0013

Dan O'Conner  
251-4 Colonnade Drive  
Charlottesville, VA 22901

Barren Barry  
572 Gwynedd Way  
Springfield, VA 22153

Reverend Milton A. Hathaway  
630 Crumps Mill Road  
Quinton, VA 23141

Frank Parker, Director  
Voting Rights Project  
Lawyers Comm. for Civil Rights Under Law  
1400 Eye Street, N.W., Suite 400  
Washington, DC 20005

Ms. D.K. Starr  
130 Spring Cove Drive  
Harris, NC 27511

David Bailey  
P.O. Box 6273  
Richmond, VA 23230

James Walsh  
205 Academy Drive  
Arlington, VA 24210

Peter Mowitt  
General Registrar Frederick Co.  
15 N. Kent Street  
Hinchester, VA 22601

Andy Fox  
120 E. Sewell Avenue  
Hampton, VA 23663

Mr. Lemont Simons, President  
Chesapeake Council of Civil  
Organizations  
P.O. Box 16031  
Chesapeake, VA 23228-6031



Robert R. Matthias  
City Hall Bldg.  
Room 332  
Virginia Beach, VA 23456

Roger C. Wiley, Jr.  
Senior Assistant Attorney General  
Supreme Court Building  
101 North Eight Street, 5th Floor  
Richmond, VA 23219

Robert R. Spencer  
Rt. 4, Box 1250  
Gloucester, VA 23061

K. Marshall Cook  
Deputy Attorney General  
Supreme Court Building  
101 North Eight Street, 6th Floor  
Richmond, VA 23219

Toni Carney  
Travesky & Associates  
3900 Jermantown Rd.  
Suite 350  
Fairfax, VA 22030

Rhea F. Moore, Jr.  
Clerk of Circuit Court  
P.O. Box 429  
Tazewell, VA 24651

Bill Turner  
William C. Everman Assoc.  
380 Cleveland Place  
Virginia Beach, VA 23462

Loreno Flemings  
Hanover Co. Civic Assoc.  
2810 Hawthorn Ave.  
Richmond, VA 23222

Katie Webb  
Box 31394  
Richmond, VA 23294

Isabel Paul  
Municipal Reference Library  
P.O. Box 27032  
Richmond, VA 23273

Ms. Betty J. Weldon  
Charlotte County NAACP  
P.O. Box 21  
Charlotte Courthouse, VA 23923

Charles S. Robb  
The United States Senate  
Washington, DC 20510

Richard Real  
WBTV  
1001 East Main St.  
Suite 818  
Richmond, VA 23219

Carol Mitchell (INTER OFFICE)  
Senior Legal Asst.  
Office of Attorney General  
101 N. Eighth St., 6th Fl.  
Richmond, VA 23219

Mr. Paul Gillis, President  
Suffolk Chapter NAACP  
P.O. Box 1547  
Suffolk, VA 23434

Mate Custer  
WTKR TV  
Lower Box 3  
2102 Executive Drive  
Hampton, VA 23666

Ruth Finney  
VA Center on Aging  
MCV  
Box 229  
Richmond, VA 23298

Albert Pollard  
504 1/2 W. Marshall St.  
Richmond, VA 23220

Joseph Gatins  
Richmond Times Dispatch  
P.O. Box C32333  
Richmond, VA 23293

Al Carlson  
Patrick Henry Community College  
Learning Resource Center  
P.O. Box 5311  
Martinsville, VA 24115

Willa S. Bazemore  
1600 Great Bridge Blvd.  
Chesapeake, VA 23320

Clifford Collins  
Baltimore NAACP  
3605 Mt. Hope Drive  
Baltimore, MD 21215

S. Kendall Anderson, P.E., L.S.  
Anderson and Associates, Inc.  
100 Ardmore Street  
Blacksburg, VA 24060

Jennifer Mullins  
Va Association of Realtors  
P.O. 15719  
Richmond, VA 23227

Jim Reed  
1320 Old Chainbridge Road  
Suite 220  
McLean, VA 22101

VA Association of Counties  
Leigh Ann McKelway  
1001 E. Broad St., Suite LL20  
Richmond, VA 23219

Paul C. Cline  
Political Science Dept.  
James Madison University  
Harrisonburg, VA 22807

Jeannette Hughes  
League of Women Voters  
3004 Rivermont Avenue  
Apt. 210  
Lynchburg, VA 24503

Morton Matthew  
P.O. Box 725  
Lawrenceville, VA 23868

Bill Atkinson  
Progress - Index  
P.O. Box 71  
Petersburg, VA 23803

Mr. G. Timothy Oksman  
400 E. Broad Street, Suite 300  
City Hall  
Richmond, VA 23219

The Honorable Charles J. Colgan  
ATTN: Mary Hamm  
P.O. Box 1650  
Manassas, VA 22110-1650

Grindly R. Johnson  
17016 Birch Tr. Circle  
Chesapeake, VA 23320

Harvey Powell, Jr.  
7941 Candlewood Circle  
Chesapeake, VA 23324

Elva T. Hughes  
508 Kingston Drive  
Virginia Beach, VA 23452

Jamie E. Bellamy  
2212 Rock Creek Dr.  
Chesapeake, VA 23325

Koland L. Thornton  
1953 Doris Avenue  
Chesapeake, VA 23324

W. H. Butlin  
1315 Jackson Avenue  
Chesapeake, VA 23324

Sheldon L. Corner  
325 Susan Constant Drive  
Virginia Beach, VA 23451

Charles S. Lonley  
2221 Clover Rd., East  
Chesapeake, VA 23321

Ty Hicks  
107 Dominion Tower  
Norfolk, VA 23510

Edward E. Vanle  
276 Ferrywood Road  
Chesapeake, VA 23320

Kae H. Le Sesne  
6325 Thornbury Lane  
Virginia Beach, VA 23462

M.B. Jackson  
1125 Ditchley Road  
Virginia Beach, VA 23451

Lamont Simmons, President  
Chesapeake Council of Civic Organizations  
P.O. Box 16031  
Chesapeake, VA 23328-6031

Greater Herndon Citizens Association  
P.O. Box 649  
Herndon, VA 22070

Reginald Malone  
801 N. 27th Street  
Richmond, VA 23223

Nancy Fitzgerald  
Rt. 2 Box 648  
Nokesville, VA 22123

Angel Troublefield  
4101 Fitzhugh Avenue  
Richmond, VA 23220

Mrs. Anne R. Keast  
5207 Monroe Drive  
Springfield, VA 22151

Ned Burks  
704 Woodland Avenue  
Winchester, VA 22601

Janmie Jarvis  
News-Gazette  
P.O. Box 1153  
Lexington, VA 24450

Ms. Robinson  
231 Hodder Lane  
Highland Springs, VA 23075

Mrs. Madge H. Poole  
Rt. 1 Box 331  
Hume, VA 22639

Joris R. DeHart  
Assistant County Administrator  
Chesterfield County  
P.O. Box 40  
Chesterfield, VA 23832

David Gayle  
P.O. Box 339  
Stafford, VA 22554

Thomas Dodson  
P.O. Box 1124  
Middleburg, VA 22117

Katherine Mull  
400 Queens Rowe Street  
Herridon, VA 22070

U.S. (Willie) Williams  
P.O. Box 1494  
Woodbridge, VA 22193

Linda Arnold  
P.O. Box 60  
Lynchburg, VA 24505

Mr. Rodney Taylor  
P.O. Box 464  
Amherst, VA 24521

Toni Dominguez  
332 Tompkins Court  
Dumfries, VA 22026

Sue Mitterer  
Office of the Fairfax Co. Attorney  
4100 Chain Bridge Road  
Fairfax, VA 22030

James E. Rich  
P.O. Box 1344  
Middleburg, VA 22117

Brian Sherman  
Southern Regional Council  
60 Walton Street  
Atlanta, GA 30303

Rose B. McDade  
Rt. 1 Box 59C  
Broad Run, VA 22014

Marwan Burgan  
4107 Eitan Court  
Annandale, VA 22003

Legislative Information  
Attn: Mary Beth  
Capitol Bldg., 1st Floor  
INTER-OFFICE  
Richmond, VA 23219

R. Harvey Chappell, Jr. Esquire  
Christian, Varton & Epps  
909 E. Main Street  
Richmond, VA 23219

Karl Gilbert  
National Association of Realtors  
477 14th St., N.W.  
Washington, DC 20005

Audrey Anderson  
Henrico Co. Planning Office  
P.O. Box 27032  
Richmond, VA 23237

Ms. Kathleen Randall  
Clerk's Office  
P.O. Box 44281  
Baton Rouge, LA 70804

Stephen R. Miller  
General Counsel  
Joint LCPEER  
Central High Legislative Services Bldg.  
Jackson, MS 39215-1204

Tim Storey  
NCSL  
1560 Broadway, Suite 700  
Denver, CO 80202

Scott Bates  
Democratic Party of Virginia  
1001 East Broad Street  
Richmond, VA 23219

Black Gravely  
Virginia State Conference NAACP  
P.O. Box 27212  
Richmond, VA 23261

Dr. Inder B. Singh  
10036 Downeys Wood Ct.  
Burke, VA 22015

Albemarle NAACP  
P.O. Box 6925  
Charlottesville, VA 22906

Mike Anderson  
The News & Daily Advance  
P.O. Box 44  
Chester, VA 23831

Jessica Berman  
WAMU FM Broadcasting Co.  
American University  
Washington, DC 20016

Tina Blanton  
Va. Community Action  
517 W. Grace St., Suite 105  
Richmond, VA 23220

David Brown  
Virginia Chamber of Commerce  
9 South Fifth Street  
Richmond, VA 23219

Walter C. Ayers  
Executive Vice President  
Va. Bankers Association  
P.O. Box 462  
Richmond, VA 23219

Ms. Sandra D. Bowen  
Dir. of Gov't Affairs  
Va. Chamber of Commerce  
9 South Fifth Street  
Richmond, VA 23219

Mr. Rick Cagan  
Virginians for Fair Rates  
P.O. Box 135  
Richmond, VA 23201

L. Ray Ashworth  
Executive Vice President  
Va. Trucking Assoc.  
104 W. Franklin St., Suite D  
Richmond, VA 23220

Mr. Oliver Bennett  
Northampton County Voters League  
RFD  
Birdnest, VA 23307

Aura Bland  
Juniata Register & Bee  
P.O. Box 331  
Juniata, VA 24543

Angela Bowser  
Information Resources  
State Corporation Commission  
Jefferson Building, 13th Floor  
Richmond, VA 23219

Peter Clendenin  
Va. Health Care Association  
2112 W. Laburnum Ave.  
Richmond, VA 23227

Mr. Willie Cooper  
4126 Rock Creek Drive  
Chesapeake, VA 23325

James F. Duckhardt  
Executive Director  
Association of General Contractors  
P.O. Box 6878  
Richmond, VA 23230

Mr. Charles R. Duval, Jr.  
Lindl Corporation  
P.O. Box 170  
Richmond, VA 23230

Mr. James Ghee  
NAACP  
P.O. Box 345  
Juniata, VA 23901

Paul Gregory  
City Editor  
Richmond Times-Dispatch  
P.O. Box C-32333  
Richmond, VA 23293

Stuart W. Connock  
Office of the President  
University of Virginia  
Box 9011  
Charlottesville, VA 22906

INTER-OFFICE

Garry G. DeBruhl  
Executive Director  
VA Wholesalers & Distributors  
P.O. Box 2129  
Richmond, VA 23216

Mr. Carl Eggleston  
P.O. Box 354  
Farmville, VA 23901

Melanie Gerheart  
700 E. Main Street  
Suite 1615  
Richmond, VA 23219

Mr. Robert Grey  
Richmond Crusade for Voters  
1111 E. Main Street  
Richmond, VA 23219

Zachariah C. Dameron, Jr.  
Va. Manufacturers Assoc.  
P.O. Box 412  
Richmond, VA 23203

Ms. Cynthia Downs  
NAACP  
14578 E. Old Courthouse  
Newport News, VA 23602

Mr. Dale Eisman  
The Virginia Pilot & Ledger Star  
1001 E. Broad St., #340  
Richmond, VA 23219

James L. Gaphery, M.D.  
10246 Cherokee Road  
Richmond, VA 23225

R. Neal Graham  
Va. Interfaith Center for Public Policy  
1627 Monument Ave. #304  
Richmond, VA 23220

J.B. Hall, Jr.  
Executive V.P.  
Va. Home Builders Assoc.  
1108 E. Main St., #700  
Richmond, VA 23219

Mr. Peter T. Halpin  
World Resources Co.  
1600 Anderson Rd.  
McLean, VA 22102

Mr. John Harrison  
NAACP  
P.O. Box 2323  
Christiansburg, VA 24073

Robert Kirby  
INTER-OFFICE  
Commission on Local Gov't  
Room 702  
3111 St. Office Bldg.  
Richmond, VA 23219

Thomas A. Lisk  
Hazel & Thomas  
P.O. Box 3-K  
Richmond, VA 23230

Alice Lynch  
General Registrar-Richmond  
900 E. Broad Street  
Richmond, VA 23219

Mr. W. Thomas Hudson  
President  
Va. Coal Association  
1001 E. Broad St. #425  
Richmond, VA 23219

Mr. David L. Johnson  
Va. Education Assoc.  
116 South 3rd St.  
Richmond, VA 23219

Sandra L. Kramer  
Medical Society of Va.  
700 E. Main Street  
Suite 1612  
Richmond, VA 23219

Mr. David Laws  
IAFL-CIO  
1315 W. Broad Street  
Richmond, VA 23230

Ron Jordan  
INTER-OFFICE  
House Appropriations Office  
9th Floor  
General Assembly Building  
Richmond, VA 23219

Mr. Edwin C. Luther  
Va. Chamber of Commerce  
9 South Fifth Street  
Richmond, VA 23219

Martha Marks  
Greater Washington Board of Trade  
1129 20th Street, N.W.  
Washington, DC 20036

John W. MacIlroy  
Va. Manufacturers Assoc.  
P.O. Box 412  
Richmond, VA 23203

Ms. D. Jean McCart  
303 Apperson Drive  
Blacksburg, VA 24060

J. Ronald Nowland  
Executive V.P.  
Auto Dealers Assoc. of Va.  
P.O. Box 5407  
Richmond, VA 23220

Mr. A.C. Russell  
WAGE Radio  
711 Wage Drive SW  
Leesburg, VA 22075

Ms. Wanda L. Sties  
Secretary, Gov't. Affairs  
VA/MD?DC Assoc. of Electric Cooperatives  
4102 Dominion Boulevard  
Glen Allen, VA 23060

James W. Turner  
Va. Council of Churches  
2321 Westwood Avenue  
Richmond, VA 23230

James L. Moore, Jr.  
Executive V.P.  
Medical Society of Va.  
4205 Dover Road  
Richmond, VA 23221

Laurens Sartoris  
Va. Hospital Association  
4200 Innslake Drive  
Glen Allen, VA 23060

Catherine Y. Short  
Vice-Chairman  
James City Co. Elect. Bd.  
P.O. Box FD  
Williamsburg, VA 23187

Leah Stith  
Office of Lt. Governor  
101 N. Eighth Street  
Richmond, VA 23219

Kristin Moyer  
President  
Assoc. of Univ. Women  
2550 Hickory Hollow Lane  
Oakton, VA 22124

Linda Rhodeniser  
Hazel & Thomas  
P.O. Box 3-K  
Richmond, VA 23221

Mark W. Sauris  
President  
VA League of Savings Inst.  
5th & Franklin St., Suite A  
Richmond, VA 23219

Ms. Helen Shropshire  
NAACP  
5908 Tajo Avenue  
Virginia Beach, VA 23455

Mrs. Nancy Taylor  
Capitol Committee  
Virginia PTA  
1107 Kenmore Drive  
Mechanicsville, VA 23111

Mrs. Sara West  
Legislative Committee  
Virginia PTA  
886 N. Jackson Street  
Arlington, VA 22201

Bishop L.E. Willis  
Garden of Prayer  
812 Washington Street  
Portsmouth, VA 23704

Ed Fredericks  
650 Keithley Drive  
Great Falls, VA 22066

Bruce Butler  
14604 F Old Courthouse Way  
Newport News, VA 23602

Mr. J.J. Zelinski  
19 Sidney Place  
Newport News, VA 23601

Danny L. Wallis  
1400 Jefferson Drive  
Smithfield, VA 23430

Admiral & Mrs. A.L. Kellin  
P.O. Box 130  
Mathews, VA 23109

Robert Miserentino  
38 Brookfield Drive  
Hampton, VA 23666

Mrs. William H. Woodward  
1206 Raymond Drive  
Seaford, VA 23696

Neil M. Jones  
52 Colony Doad, Apt. 6  
Newport News, VA 23602

Leo Roseman  
15 Wakefield Road  
Newport News, VA 23606

Mr. Al Moore  
American Party in Virginia  
P.O. Box 86  
Mechanicsville, VA 23111

TOTAL NUMBER OF LABELS PRINTED

385



COMMONWEALTH OF VIRGINIA  
HOUSE OF DELEGATES  
RICHMOND

KENNETH R. MELVIN  
601 DINWIDDIE STREET  
PORTSMOUTH, VIRGINIA 23704  
EIGHTIETH DISTRICT

COMMITTEE ASSIGNMENTS:  
PRIVILEGES AND ELECTIONS  
COUNTIES, CITIES AND TOWNS  
HEALTH, WELFARE AND INSTITUTIONS  
CLAIMS

CHESAPEAKE LIST

1. Herbert Mackey...1248 Lake Point Drive, 23323...424-0432
2. Dr. Bill Ward....1432 S. Waterside Drive, 23 ...420-4230
3. Lionell Spruill...1772 Atlantic Avenue, 23324....545-6781
4. Willia Bazemore...1600 Great Bridge Blvd, 23320....543-4962
5. Lee Smith Sr.....3318 Bainbridge Blvd, 23324....543-0217
6. James Bellamy.....2112 Rock Creek Drive .....424-5499
7. Dr. Hugo A. Owens.4405 Airline Blvd, 23321.....488-8708
9. Grindley R. Johnson.....424-6441
10. Willie Cooper.....2126 RockCreek Dr. 23325.....424-6441
11. Jesse Lee, Jr.....2316 Portcock Rd., 23324
12. Dr. James H. Robinson...2301 Tapscott Ave., 23324..545-5889
13. John Ashby.....2217 Georgetown Road, 23325....420-6566
14. Walter L. Erving..1043 Main Creek Road, 23320
15. John Hayplett.....1027 Main Creek Road, 23320
16. Wardell M. Nottingham..1200 N. Battlefield Blvd. #105, 23320
17. William H. Johnson..545 Fernwood Farmm Road, 23320





COMMONWEALTH OF VIRGINIA  
HOUSE OF DELEGATES  
RICHMOND

KENNETH R. MELVIN  
601 GINWOOD STREET  
PORTSMOUTH, VIRGINIA 23704

EIGHTIETH DISTRICT

COMMITTEE ASSIGNMENTS:  
PRIVILEGES AND ELECTIONS  
COUNTIES, CITIES AND TOWNS  
HEALTH, WELFARE AND INSTITUTIONS  
CLAIMS

NORFOLK LIST

- |   |          |
|---|----------|
| 1. Dr. John H. Foster, 745 Park Avenue, 23504                 | 625-4367 |
| 2. Ms. Evelyn T. Butts, 6801 Silverwood Circle, 23513         | 853-7770 |
| 3. Bishop L. E. Willis, 812 Washington Street, 23704          | 399-4895 |
| 4. Mr. Paul Riddick, 1225 Norview Avenue, 23513               | 855-9010 |
| 5. Mr. Anthony C. Paige, 3320 Norway Place, 23509             | 627-8354 |
| 6. Rev. Joseph N. Green, Jr., 1400 E. Brambleton Avenue 23504 | 625-2868 |

PORTSMOUTH LIST

- |  |          |
|--|----------|
| 1. Ms. Maggie Anderson, 1510 Parker Avenue, 23704            | 399-5463 |
| 2. Ms. Diane Davis-Wagner, 129 Yorkshire Road, 23701         | 564-5441 |
| 3. Mr. Willie Chambers, 2403 Lansing Avenue, 23704           | 399-2272 |
| 4. Mr. William E. Copeland, 2107 Staunton Avenue, 23704      | 393-0898 |
| 5. Mr. Raymond Turner, 526 Bunch Court, 23701                | 487-5564 |
| 6. Mr. Vernon C. Crump, Jr., 2501 Oak Street, 23704          | 399-4763 |
| 7. Rev. Joe B. Fleming, 461 Godwin Street, 23704             | 393-9312 |
| 8. The Honorable E.G. "Tip" Corprew, P. O. Box 144, 23705    | 393-8746 |
| 9. The Honorable L. Louise Lucas, 1120 Lakeview Drive, 23701 | 624-1567 |
| 10. The Honorable Johnny Clemons, 585 Dunkirk Street, 23703  | 441-6201 |
| 11. The Honorable Lee King, 1504 Belafonte Drive, 23701      | 487-5613 |

## **Exhibit D**



# COMMONWEALTH of VIRGINIA

Office of the Attorney General  
Richmond 23219

Mark L. Earley  
Attorney General

900 East Main Street  
Richmond, Virginia 23219  
804 - 786 - 2071  
804 - 371 - 8946 TDD

February 13, 1998

## BY HAND

The Honorable Elizabeth Johnson  
Chief, Voting Section, Civil Rights Division  
U.S. Department of Justice  
320 First Street, N.W., Room 818A  
Washington, D.C. 20001

**Re: Submission under Section 5 of the Voting Rights Act:  
Ch. 1, 1998 Va. Acts  
Redistricting U.S. Congressional Seats**

Dear Voting Section Chief Johnson:

Pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. § 1973c, the Office of the Attorney General of Virginia hereby submits Ch. 1, 1998 Va. Acts, redistricting the U.S. Congressional Seats allocated to Virginia. This submission includes the information required under 28 C.F.R §§ 51.26 and 51.27, as well as supplemental information permitted under § 51.28.

As is detailed in the accompanying submission, Virginia was required to draw new Congressional district lines by mandate of the three judge panel in Moon v. Meadows, 952 F. Supp. 1141 (E.D. Va.), aff'd, 117 S.Ct. 2501 (1997). The Court determined that Virginia's Third Congressional District was an unconstitutional racial gerrymander. The Court has enjoined any elections in the Third District until a new District conforming to constitutional requirements has been redrawn. The Court has ordered Virginia to draw a new District conforming to all requirements of law.

Virginia has addressed the concerns of the Court by revising the boundaries of the Third District, and the adjoining First, Second, Fourth, and Seventh Districts. The boundaries of the Fifth, Sixth, Eighth, Ninth, Tenth, and Eleventh Districts remain unchanged. Chapter 1 of the 1998 Acts of Assembly, (Senate Bill 113) eliminates splits in the jurisdiction of Hanover County, the City of Petersburg, the City of Portsmouth, Prince George County, Spotsylvania County, and Stafford County.

County, and the Cities of Suffolk and Virginia Beach. The new district lines result in significantly more compact and contiguous districts. No existing precinct lines have been divided by the new district lines. The new district lines respect communities of interest, and they minimize disruption and voter confusion to the greatest extent practicable. The new district lines maintain equal population, with extremely low deviations. All eleven members of Virginia's Congressional delegation approve of these new district lines, including the Third District incumbent, Representative Robert C. Scott. The Plan has this bi-partisan support because it advances Virginia's important economic interests, by maintaining Virginia's representation on strategic Congressional military subcommittees.

The 1991 Congressional redistricting plan created Virginia's first Congressional District with a majority black total and voting age population. After amendments by the 1992 and 1993 sessions of the General Assembly, the Third District contained a total black population of 64.37 percent, and a black voting age population of 61.60 percent. The 1998 adjustments modify the Third District, which now contains a 53.59 percent black total population, and a 50.47 percent black voting age population. The 1998 plan slightly increases the black total and voting age populations in the adjoining First, Second, and Seventh Districts. The 1998 plan increases the black total and voting age populations in the Fourth District to percentages which are almost identical to those of the 1982 district under the 1990 census, with a 38.59 percent black total population, and a 36.75 percent black voting age population. The result of the adjustments in the 1998 plan to address the concerns of the Moon v. Meadows Court is that it re-establishes the Fourth District as a strong minority influence district.

We are hopeful that the Department of Justice can review and approve this submission as quickly as possible, so as to minimize any disruption in the conduct of the 1998 Congressional elections. We look forward to working with you on this matter and are prepared to provide you promptly with any further information the Department may require to complete its review of this submission. Please do not hesitate to call Assistant Attorney General Mary E. Shea at (804) 786-8198 if you have any questions or if we may be of further assistance.

Sincerely,

A handwritten signature in dark ink, appearing to read "Francis S. Ferguson", with a long, sweeping horizontal line extending to the right.

Francis S. Ferguson  
Deputy Attorney General

## **INTRODUCTION: ORGANIZATION OF THE SUBMISSION**

This submission pursuant to § 5 of the Voting Rights Act presents the information required under 28 C.F.R. §§ 51.26 - 51.28 for preclearance review of the 1998 Va. Acts Ch. 1 redistricting Virginia's Congressional seats. The submission is contained in 13 labeled notebooks, and two videotapes of the legislative floor debates. The first notebook provides an overview of the entire submission, keyed to the applicable Federal regulations. This overview references various attachments when the information requested cannot conveniently be presented in summary format. The plans, along with maps and supporting data, are contained in consecutively numbered and clearly labeled black notebooks. True copies of hearing transcripts and videotaped recordings of floor debates are included in this submission and, in addition, they are summarized in the appropriate attachment.

**SUBMISSION UNDER § 5 OF THE VOTING RIGHTS ACT:  
1998 VA. ACTS CH. 1  
REDISTRICTING VIRGINIA'S U.S. CONGRESSIONAL SEATS**

**DATE:**

**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 Chapter 1, 1998 Va. Acts of Assembly ("Chapter 1") (**Attachment 1**).
  - (b) Copy of current Va. Code § 24.2-302 (**Attachment 2**).
  - (c) Statement of the change. **Attachment 3** provides a detailed explanation of Chapter 1 redistricting the U.S. Congressional seats allocated to Virginia.
  - (d) Francis S. Ferguson  
Deputy Attorney General  
Office of the Attorney General  
900 East Main Street  
Richmond, Virginia 23219  
(804) 786-2071
  - (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:

"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 1971 and every ten years thereafter.

"Any such reapportionment law shall take effect immediately and not be subject to the limitations contained in Article IV, Section 13 [concerning the effective date of laws generally], of this Constitution."

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 and approved by the Governor.

Chapter 1 of the 1998 Va. Acts of Assembly revises the boundaries of five of Virginia's eleven Congressional districts in response to the mandate of the three judge panel in Moon v. Meadows, 952 F. Supp. 1141 (E.D. Va.), aff'd, 117 S.Ct. 2501 (1997). The Court held that the Third Congressional District was an unlawful racial gerrymander. The Court has enjoined any elections in the Third District until a new District conforming to the law is drawn. Chapter 1 of the 1998 Va. Acts of Assembly redraws the Third District to address the concerns of the Court, and adjustments to the adjoining districts necessarily followed.

- (i) Chapter 1, 1998 Va. Acts was adopted by the General Assembly on February 2, 1998 and signed by the Governor on February 11, 1998.
- (j) Pursuant to Va. Const. Art. II § 6 (1971), Chapter 1 became effective immediately on February 11, 1998.
- (k) Chapter 1 has not yet been enforced or administered.
- (l) Chapter 1 affects Congressional districts 1, 2, 3, 4, and 7.
- (m) A statement of the reasons for the change is included in **Attachment 3**. See also item (h) above.
- (n) Statement of anticipated effect on members of racial minority groups. **Attachment 4**. See also **Attachment 5**. No significant concentration of persons representing a language minority has been identified in Virginia

- (o) Statement identifying past or pending litigation concerning the change or related voting practices. **Attachment 5.**

- (p) Va. Code § 24.2-302, containing the current Congressional districts, was last amended on April 7, 1993, and was last precleared on August 20, 1993.

As discussed in item (h) above, Ch. 1, 1998 Va. Acts reapportioning the U.S. Congressional seats allocated to Virginia was adopted pursuant to the procedure provided in Va. Const. Art. II § 6, Art. IV § 11 and Art. V § 6. Article IV § 11 and Art. V § 6 as last amended in 1980 were precleared on July 11, 1980. Article II § 6 was precleared on June 18, 1971 and has not been amended.

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

#### Section 51.28

- (a) Demographic information

- (1) Total and voting age population for each district under present Va. Code § 24.2-302 and under Chapter 1 by race are provided in **Attachments 6 and 7**. As noted, no significant concentration of persons representing a language minority has been identified in Virginia
- (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 for years 1992-1997 is provided, along with the relevant election data referenced further below, in **Attachment 8**. This information was provided by the Virginia State Board of Elections.
- (3) Official 1990 population information, including precinct and block data and racial and language population data, was received from the U.S. Bureau of the Census on January 22, 1991. The official U.S. Census data immediately became part of the public records available to individuals and groups participating in the redistricting process. No other estimates of population were



made in connection with the adoption of the change.

(b) Maps

- (1) Maps showing prior and new district boundaries are contained in **Attachment 9**. This information was provided by the Virginia Division of Legislative Services.
- (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 racial minority groups are shown, by precinct, in **Attachment 9**. This information was provided by the Virginia Division of Legislative Services. As noted, no significant concentration of persons representing a language minority has been identified in Virginia
- (4) Maps of the Commonwealth of Virginia. Maps showing natural boundaries or geographical features influencing the selection of the old district boundaries in Va. Code § 24.2-302 and the new boundaries in Chapter 1 are contained in Attachment 11 of the submission relating to the redistricting of the Virginia House of Delegates. That submission was dated and delivered to the Department of Justice on May 17, 1991. This incorporation of portions of the earlier submission by reference is made pursuant to 28 C.F.R. § 51.26(e). There are no major changes in this information which impact the new district lines established by Chapter 1.
- (5) Not applicable. Chapter 1 does not change & polling places or voter registration sites. Such
- (6) changes are the responsibility of local governments.

(c) Not applicable.

- (d) Election returns. Election return data for the present First, Second, Third, Fourth, Fifth, and Seventh Congressional Districts, by precinct, for Congressional,

at large state, at large federal, Virginia General Assembly, and related primary and special elections for years 1992-1997 are provided in **Attachment 8**. This information was provided by the Virginia State Board of Elections.

Also included in **Attachment 8** is a chart prepared by the Division of Legislative Services explaining all changes in precinct lines for the years 1992-1997, for use with these 1992-1997 election returns.

A chart prepared by the Division of Legislative Services identifying of the names of these candidates, the positions sought, and their race are also provided in **Attachment 10**.

Election return data by precinct for the 1990 U.S. Congressional elections and the November 1991 elections for the Virginia Senate and House of Delegates, prepared by the Division of Legislative Services, are contained in Attachment 10 of the submission related to the former Congressional Districts that was dated and delivered to the Department of Justice on December 20, 1991. The referenced attachment, which is incorporated herein pursuant to 28 C.F.R. 51.26(e), includes a listing of precincts before the 1991 local redistricting for use with the 1990 U.S. Congressional election returns.

Election return data prepared by the Virginia Division of Legislative Services for years 1983-1989 for the Congressional, at large state, at large federal, Virginia General Assembly, and related primary and special elections are contained in Attachment 12 of the submission relating to the Virginia House of Delegates that was dated and delivered to the Department of Justice on May 17, 1991. The referenced attachment, which is incorporated pursuant to 28 C.F.R. § 51.26(e), includes information on the names of each candidate, the race of candidates, the position sought by each candidate, the total number of votes cast for each candidate in each precinct, and the outcome of each contest.

Election return data summaries by district for the 1984-1989 Congressional, at large state, at large federal, and related primary and special elections are contained in Appendix R of the submission related to the technical amendments to the former Congressional Districts that was dated and delivered to the Department of Justice on June 22, 1993. This data contained in Appendix R is incorporated herein pursuant to 28 C.F.R. § 51.26(e).

Election return data summaries by district for the 1984-1989 Congressional, at large state, at large federal, and related primary and special elections are contained in Appendix R of the submission related to the technical amendments to the former Congressional Districts that was dated and delivered to the Department of Justice on April 20, 1992. This data contained in Appendix R is incorporated herein pursuant to 28 C.F.R. § 51.26(e).

Election return data summaries by district for the 1983-1989 State House of Delegates, at large state, at large federal, and related primary and special elections are contained in Appendix R of the submission related to the technical amendments to the State House of Delegates Districts that was dated and delivered to the Department of Justice on June 21, 1994. This data contained in Appendix R is incorporated herein pursuant to 28 C.F.R. § 51.26(e).

Election return data summaries by district for the 1983-1989 State House of Delegates, at large state, at large federal, and related primary and special elections are contained in Appendix R of the submission related to the technical amendments to the State House of Delegates Districts that was dated and delivered to the Department of Justice on June 9, 1993. This data contained in Appendix R is incorporated herein pursuant to 28 C.F.R. § 51.26(e).

Election return data summaries by district for the 1983-1989 State Senate, at large state, at large federal, and related primary and special elections are contained in Appendix R of the submission related to the technical amendments to the State Senate Districts that was dated and delivered to the Department of Justice on June 11 and June 23, 1993. Additionally, election

return data by precinct for the 1992 special election for State Senate District 2 is contained in Appendix R to this submission. This data contained in Appendix R is incorporated herein pursuant to 28 C.F.R. § 51.26(e).

Information on the number of registered voters by race or language group is not available in Virginia, and as noted previously, no significant concentration of persons representing a language minority has been identified in Virginia.

- (e) Not applicable.
- (f) Publicity and participation.
  - (1) The 1997 Moon v. Meadows decision and the resulting 1998 Virginia Congressional redistricting process received extensive statewide media coverage. **Attachment 11** provides a sampling of representative newspaper articles.
  - (2) Notices of Public Hearings were mailed to the media throughout the Commonwealth. Notices of Committee meetings and floor sessions were provided to the General Assembly and to the public through the meeting notice listings on the General Assembly's website and Legislative Information System, and through the official calendars of the House and Senate. Articles on the redistricting process were published in the Legislative Record and in the Issue Brief for the 1998 Session, two documents circulated to broad mailing lists and available to the public through the home page of the Division of Legislative Services. Copies of these notices are provided in **Attachment 12**.
  - (3) Summaries of the public hearings on reapportioning Virginia's Congressional seats are provided in **Attachment 13**. True copies of the full transcripts, together with statements filed at the hearings, are also included in **Attachment 13**.
  - (4) Statements, speeches and other public communications, including alternative proposals,

submitted in connection with the adoption of Chapter 1 are provided in **Attachment 14**.

- (5) **Attachments 13 and 14** include comments from the general public.
- (6) **Attachment 15** provides a brief summary of the legislative history of Chapter 1 together with floor amendments, summaries of floor debates, and recorded votes in committee and on the floor. Videotaped recordings of the floor debates in the Virginia House of Delegates and Senate on the Congressional Redistricting Plan are included with this submission.
- (g) Availability of the submission. **Attachment 16** 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.
- (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 & Elections Committee:

The Honorable Kenneth R. Melvin  
Room 813, General Assembly Building  
Richmond, Virginia 23219  
Phone: (804) 698-1080

The Honorable A. Donald McEachin  
Room 712, General Assembly Building  
Richmond, Virginia 23219  
Phone: (804) 698-1074

Members of the Senate Privileges & Elections  
Committee:

The Honorable Benjamin J. Lambert, III  
Room 311, General Assembly Building  
Richmond, Virginia 23219  
Phone (804) 698-7509

Member of the House of Representatives:

The Honorable Robert C. (Bobby) Scott  
2464 Rayburn House Office Building  
Washington, D.C. 20515-4603  
Chief of Staff, Joni Ivey

As noted, no significant concentration of persons  
representing a language minority has been identified in  
Virginia.

ENROLLED

## VIRGINIA ACTS OF ASSEMBLY — CHAPTER 1

*An Act to amend and reenact § 24.2-302 of the Code of Virginia, relating to congressional districts.*

[S 13]

Approved FEB 11 1998

**Be it enacted by the General Assembly of Virginia:****1. That § 24.2-302 of the Code of Virginia is amended and reenacted as follows:****§ 24.2-302. Congressional districts.**

A. There shall be eleven Virginia members of the United States House of Representatives elected from eleven congressional districts and each district is entitled to representation by one representative.

**B. The eleven congressional districts are:**

First. All of Accomack, Caroline, Essex, Gloucester, James City, *King and Queen*, King George, *King William*, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, *Spotsylvania*, Stafford, Westmoreland, and York Counties; all of the Cities of Fredericksburg, Poquoson, and Williamsburg; ~~part of Hanover, and Spotsylvania Counties;~~ and part of the Cities of Hampton and Newport News.

Second. ~~Part All of the Cities City of Norfolk and Virginia Beach; and part of the City of Norfolk.~~

Third. All of Charles City, ~~Essex, King and Queen, King William,~~ New Kent, and Surry Counties; part of Henrico, and ~~Prince George Isle of Wight~~ Counties; and part of the Cities of Hampton, ~~Hopewell,~~ Newport News, Norfolk, ~~Petersburg, Portsmouth, and~~ Richmond, ~~and Suffolk.~~

Fourth. All of Amelia, Brunswick, Dinwiddie, ~~Goochland,~~ Greensville, ~~Isle of Wight, Louisa,~~ Nottoway, ~~Powhatan,~~ *Prince George*, Southampton, and Sussex Counties; all of the Cities of Chesapeake, Colonial Heights, Emporia, ~~and~~ Franklin, ~~Hopewell, Petersburg, Portsmouth, and Suffolk;~~ and part of Chesterfield and ~~Prince George Isle of Wight~~ Counties; ~~and part of the Cities of Hopewell, Petersburg, Portsmouth, Suffolk, and Virginia Beach.~~

Fifth. All of Appomattox, Buckingham, Campbell, Charlotte, Cumberland, Fluvanna, Franklin, Halifax, Henry, Lunenburg, Mecklenburg, Nelson, Patrick, Pittsylvania, and Prince Edward Counties; all of the Cities of Bedford, Charlottesville, Danville, Martinsville, and South Boston; and part of Albemarle and Bedford Counties.

Sixth. All of Alleghany, Amherst, Augusta, Bath, Botetourt, Highland, and Rockbridge Counties; all of the Cities of Buena Vista, Clifton Forge, Covington, Harrisonburg, Lexington, Lynchburg, Roanoke, Salem, Staunton, and Waynesboro; and part of Bedford, Roanoke, and Rockingham Counties.

Seventh. All of Culpeper, ~~Goochland,~~ Greene, ~~Hanover, Louisa,~~ Madison, ~~and~~ Orange, ~~and Powhatan~~ Counties; part of Albemarle, Chesterfield, ~~Hanover,~~ and Henrico; ~~and Spotsylvania~~ Counties; and part of the City of Richmond.

Eighth. All of Arlington County; all of the Cities of Alexandria and Falls Church; and part of Fairfax County.

Ninth. All of Bland, Buchanan, Carroll, Craig, Dickenson, Floyd, Giles, Grayson, Lee, Montgomery, Pulaski, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe Counties; all of the Cities of Bristol, Galax, Norton, and Radford; and part of Roanoke County.

Tenth. All of Clarke, Fauquier, Frederick, Loudoun, Page, Rappahannock, Shenandoah, and Warren Counties; all of the Cities of Manassas, Manassas Park, and Winchester; and part of Fairfax, Prince William, and Rockingham Counties.

Eleventh. All of the City of Fairfax; and part of Fairfax and Prince William Counties.

C. All references to boundaries of counties and cities shall be interpreted to refer to those in existence on April 1, 1991, and as reported by the United States Bureau of the Census in the 1990 census reports provided pursuant to United States Public Law 94-171, notwithstanding subsequent boundary changes by law, annexation, merger, consolidation, or the voiding of boundary changes therefore made final.

D. Parts of counties and cities listed in subsection B *for the Fifth, Sixth, Eighth, Ninth, Tenth, and Eleventh Congressional Districts* are defined by reference to the United States 1990 Census precincts,

parts of precincts, and blocks listed for each congressional district in the Statistical Report (C0830452) on file with the Clerk of the Senate of Virginia pursuant to Chapter 983 of the 1993 Acts of Assembly. Notwithstanding the Statistical Report (C0830452), that part of Timberville Precinct of Rockingham County included in the Sixth District shall be only that part of the 1990 census precinct situated within the corporate limits of the Town of Broadway as of January 1, 1992. That part of Timberville Precinct not within such 1992 corporate limits shall be included in the Tenth District.

*E. Parts of counties and cities listed in subsection B for the First, Second, Third, Fourth, and Seventh Congressional Districts are defined by reference to the precincts and to the United States 1990 Census blocks listed for each congressional district in the Statistical Report (C0926750 - Dominion File) on file with the Clerk of the Senate of Virginia pursuant to this act.*

2. That the parts of the counties and cities listed in subsection B for the First, Second, Third, Fourth, and Seventh Congressional Districts shall be defined by reference to precincts listed in Statistical Report C0926750 - Dominion File. That report incorporates, to the extent practical, locally enacted precincts in effect November 1, 1997. Congressional district lines conform to United States 1990 Census block boundaries. If a locally enacted precinct boundary divides a United States 1990 Census block, the congressional district boundary shall follow the 1990 Census block boundary as shown in the data files and maps supporting Statistical Report C0926750.

The counties and cities divided in the First, Second, Third, Fourth, and Seventh Congressional Districts are divided as follows:

**Albemarle County:** The line dividing Albemarle County between the Fifth and Seventh Congressional Districts is not changed by the provisions of this act.

**Chesterfield County:** The Beach, Branches, Dutch Gap, Enon, Ettrick, Harrowgate, Matoaca, Point of Rocks, Walthall, Wells, and Winfrees Store Precincts are in the Fourth Congressional District. The balance of Chesterfield County is in the Seventh Congressional District.

**Henrico County:** The Byrd, Cardinal, Causeway, Cedarfield, Coalpit, Crestview, Derbyshire, Dumbarton, Freeman, Gayton, Glen Allen, Glenside, Godwin, Greendale, Hermitage, Hilliard, Innsbrook, Jackson Davis, Johnson, Lakeside, Lakewood, Lauderdale, Longan, Maude Trevvett, Maybeury, Monument Hills, Mooreland, Pemberton, Pinchbeck, Ridge, Ridgefield, Rollingwood, Sadler, Skipwith, Spottswood, Staples Mill, Stoney Run, Summit Court, Three Chopt, Tuckahoe, Tucker, West End, and Westwood Precincts are in the Seventh Congressional District. The balance of Henrico County is in the Third Congressional District.

**Isle of Wight County:** The Camps Mill, Carrsville, Orbit, Walters, and Windsor Precincts are in the Fourth Congressional District. The balance of Isle of Wight County is in the Third Congressional District.

**City of Hampton:** The Booker, Burbank, Forrest, Fox Hill, Kecoughtan, Kraft, Langley, Northampton, Phillips, Syms, and Tucker Capps Precincts are in the First Congressional District. The balance of the City of Hampton is in the Third Congressional District.

**City of Newport News:** The Beaconsdale, Bland, Boulevard, Charles, Christopher Newport, Deep Creek, Hidenwood, Hilton, Jenkins, Oyster Point, Palmer, Richneck, Riverside, Riverview, Sanford, Saunders, Sedgefield, South Morrison, Warwick, Watkins, and Yates Precincts are in the First Congressional District. The balance of the City of Newport News is in the Third Congressional District.

**City of Norfolk:** The Ballentine, Bowling Park, Brambleton, Coleman Place School, Crossroads, Hunton Y, Immanuel, Lafayette Library, Lafayette Presbyterian, Lafayette-Winona, Lindenwood, Maury, Monroe, Northside, Norview Methodist, Norview Recreation Center, Ocean View School, Park Place, Rosemont, Sherwood School, Stuart, Therapeutic Center, Union Chapel, and Young Park Precincts are in the Third Congressional District. The balance of the City of Norfolk is in the Second Congressional District.

**City of Richmond:** Precincts 101, 102, 103, 104, 105, 106, 111, 112, 404, 409, 410, 411, 412, and 413 are in the Seventh Congressional District. The balance of the City of Richmond is in the Third Congressional District.

3. That this act implements the General Assembly's responsibilities for decennial redistricting and is in force from its passage pursuant to Article II, Section 6, of the Constitution of Virginia.



The General Assembly of Virginia  
A TRUE COPY, TESTE:

*Bruce F. Jameson*

Clerk of the House of Delegates and  
Keeper of the Roils of the Commonwealth



## § 24.2-302

## ELECTIONS

## § 24.2-302

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 of Legislative Services 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 which changes an election district or precinct boundary, the local governing body shall provide a copy of its ordinance, along with 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 this chapter. 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. (1986, c. 593, § 24.1-40.11; 1991, 1st Sp. Sess., c. 10; 1992, c. 425, § 24.1-40.7:1; 1993, c. 641.)

## ARTICLE 2.

*Congressional, Senatorial, and House of Delegates Districts.*

**§ 24.2-302. Congressional districts.** — A. There shall be eleven Virginia members of the United States House of Representatives elected from eleven congressional districts and each district is entitled to representation by one representative.

B. The eleven congressional districts are:

First. All of Accomack, Caroline, Gloucester, James City, King George, Lancaster, Mathews, Middlesex, Northampton, Northumberland, Richmond, Stafford, Westmoreland, and York Counties; all of the Cities of Fredericksburg, Poquoson, and Williamsburg; part of Hanover, and Spotsylvania Counties; and part of the Cities of Hampton and Newport News.

Second. Part of the Cities of Norfolk and Virginia Beach.

Third. All of Charles City, Essex, King and Queen, King William, New Kent, and Surry Counties; part of Henrico, and Prince George Counties; and part of the Cities of Hampton, Hopewell, Newport News, Norfolk, Petersburg, Portsmouth, Richmond, and Suffolk.

Fourth. All of Amelia, Brunswick, Dinwiddie, Goochland, Greenville, Isle of Wight, Louisa, Nottoway, Powhatan, Southampton, and Sussex Counties; all of the Cities of Chesapeake, Colonial Heights, Emporia, and Franklin; part of Chesterfield and Prince George Counties; and part of the Cities of Hopewell, Petersburg, Portsmouth, Suffolk, and Virginia Beach.

Fifth. All of Appomattox, Buckingham, Campbell, Charlotte, Cumberland, Fluvanna, Franklin, Halifax, Henry, Lunenburg, Mecklenburg, Nelson, Patrick, Pittsylvania, and Prince Edward Counties; all of the Cities of Bedford, Charlottesville, Danville, Martinsville, and South Boston; and part of Albemarle and Bedford Counties.

Sixth. All of Alleghany, Amherst, Augusta, Bath, Botetourt, Highland, and Rockbridge Counties; all of the Cities of Buena Vista, Clifton Forge, Covington, Harrisonburg, Lexington, Lynchburg, Roanoke, Salem, Staunton, and Waynesboro; and part of Bedford, Roanoke, and Rockingham Counties.

Seventh. All of Culpeper, Greene, Madison, and Orange Counties; part of Albemarle, Chesterfield, Hanover, Henrico, and Spotsylvania Counties; and part of the City of Richmond.

## § 24.2-303

## CODE OF VIRGINIA

## § 24.2-303

Eighth. All of Arlington County; all of the Cities of Alexandria and Falls Church; and part of Fairfax County.

Ninth. All of Bland, Buchanan, Carroll, Craig, Dickenson, Floyd, Giles, Grayson, Lee, Montgomery, Pulaski, Russell, Scott, Smyth, Tazewell, Washington, Wise, and Wythe Counties; all of the Cities of Bristol, Galax, Norton, and Radford; and part of Roanoke County.

Tenth. All of Clarke, Fauquier, Frederick, Loudoun, Page, Rappahannock, Shenandoah, and Warren Counties; all of the Cities of Manassas, Manassas Park, and Winchester; and part of Fairfax, Prince William, and Rockingham Counties.

Eleventh. All of the City of Fairfax; and part of Fairfax and Prince William Counties.

C. All references to boundaries of counties and cities shall be interpreted to refer to those in existence on April 1, 1991, and as reported by the United States Bureau of the Census in the 1990 census reports provided pursuant to United States Public Law 94-171, notwithstanding subsequent boundary changes by law, annexation, merger, consolidation, or the voiding of boundary changes therefore made final.

D. Parts of counties and cities listed in subsection B are defined by reference to the United States 1990 Census precincts, parts of precincts, and blocks listed for each congressional district in the Statistical Report (C0830452) on file with the Clerk of the Senate of Virginia pursuant to Chapter 983 of the 1993 Acts of Assembly. Notwithstanding the Statistical Report (C0830452), that part of Timberville Precinct of Rockingham County included in the Sixth District shall be only that part of the 1990 census precinct situated within the corporate limits of the Town of Broadway as of January 1, 1992. That part of Timberville Precinct not within such 1992 corporate limits shall be included in the Tenth District. (1991, 2nd Sp. Sess., c. 6, §§ 24.1-17.300 through 24.1-17.313; 1992, c. 874; 1993, cc. 641, 983.)

**Cross references.** — For constitutional provisions as to apportionment of State into congressional districts, see Va. Const., Art. II, § 6.

**Editor's note.** — Acts 1993, c. 983, amended former § 24.1-17.313, from which this section is derived. Pursuant to § 9-77.11 and Acts 1993, c. 641, cl. 6, effect has been given in this section, as set out above. In accordance with c. 983, "(C0830452)" was substituted for "(C0786555)" in the first and second sentences of subsection D.

**Law Review.** — For article, "The Virginia Legislative Reapportionment Case: Reapportionment Issues Of The 1980's," see 5 Geo. Mason L. Rev. 1 (1982).

**Editor's note.** — The cases cited below were decided under a former law corresponding to this section.

**It is the duty of the General Assembly to reapportion the congressional districts of Virginia** so that each district shall be composed of contiguous and compact territory, containing as nearly as practicable an equal number of inhabitants, and, so far as can be done without

impairing the essential requirement of substantial equality in the number of inhabitants among the districts, give effect to the community of interest within the districts. *Wilkins v. Davis*, 205 Va. 803, 139 S.E.2d 849 (1965).

**Any plan of districting which is not based upon approximate equality of inhabitants will work inequality** in right of suffrage and of power in elections of the representatives in Congress. *Wilkins v. Davis*, 205 Va. 803, 139 S.E.2d 849 (1965).

**Certification of congressional candidates only for election at large from State.**

— Because 2 U.S.C. § 2c requires that each state establish a number of districts equal to the number of congressional representatives to which such state is entitled, and that "Representatives shall be elected only from districts so established . . .," the Supreme Court cannot legally issue a peremptory writ of mandamus requiring the State Board of Elections to certify congressional candidates only for election at large from the State. *Simpson v. Mahan*, 212 Va. 416, 185 S.E.2d 47 (1971).

**§ 24.2-303. Senatorial districts.** — A. There shall be forty members of the Senate of Virginia elected from forty senatorial districts and each district is entitled to representation by one senator.

### **ATTACHMENT 3**

#### **STATEMENT OF THE CHANGE**

Senate Bill 13 (Chapter 1 of the 1998 Acts of Assembly) revises the boundaries of five of Virginia's eleven congressional districts in response to the federal court decision in Moon v. Meadows, 952 F. Supp. 1141 (E.D. Va.), aff'd, 117 S.Ct. 2501 (1997). The Court in Moon held that the Third Congressional District was an impermissible racial gerrymander.

The 1998 General Assembly revised the boundaries of the Third District and the surrounding First, Second, Fourth, and Seventh Districts. In responding to the Court's order, the General Assembly modified the Third District to give it a more regular or compact shape, reunite split localities, and avoid dividing current precincts where localities are split. These changes affect the abutting First, Second, Fourth, and Seventh Districts. All of the resulting district lines are more compact and contiguous. No precinct lines are split. The newly drawn districts maintain equal population with an extremely low deviation. The new district lines evidence a respect for traditional Virginia districting criteria, including maintaining different Congressman in the four Congressional Districts (the First, Second, Third, and Fourth Districts) which house major military bases and/or contribute to a strong military-based economy. The revised Third District is only 95 miles long, and it respects traditional communities of interest shared along the James River. The new district lines are intended to minimize disruption and voter confusion to the greatest extent practicable. The attached chart summarizes the changes made by Senate Bill 13 in response to the Moon decision.

**SUMMARY OF CHANGES MADE BY SENATE BILL 13 Enrolled  
IN PRESENT CONGRESSIONAL DISTRICT**

No change in Fifth, Sixth, Eighth, Ninth, Tenth, and Eleventh Districts.

Maintains four separate Congressional districts having a strong military influence (First, Second, Third, and Fourth Districts).

Minimizes voter confusion and disruption and respects existing communities of interest.

No division of existing precinct lines.

Eliminates splits of Hanover, Hopewell, Petersburg, Portsmouth, Prince George, Spotsylvania, Suffolk, and Virginia Beach. Splits Isle of Wight.

Improves compactness of First, Second, Third, Fourth, and Seventh Districts.

Improves contiguity of the Third District and adjoining districts.

**First District**

Gains: All of Essex, King and Queen, and King William Counties;  
Balance of Spotsylvania County;  
More of Newport News.

Losses: Balance of Hanover County;  
Less of Hampton

**Second District**

Gains: Balance of Virginia Beach.

Losses: Less of Norfolk.

**Third District**

Gains: Part of Isle of Wight;  
More of Hampton, Henrico, Norfolk, and Richmond City.

Losses: All of Essex, King and Queen, and King William Counties;  
Balance of Hopewell, Petersburg, Portsmouth, Prince George, and Suffolk  
Less of Newport News.

**Fourth District**

Gains: Balance of Hopewell, Petersburg, Portsmouth, Prince George, and Suffolk;  
More of Chesterfield.

Losses: All of Louisa, Goochland, and Powhatan Counties;  
Balance of Virginia Beach;  
Part of Isle of Wight.

**Seventh District**

Gains: All of Louisa, Goochland, and Powhatan Counties  
Balance of Hanover County.

Losses: Balance of Spotsylvania County;  
Less of Chesterfield, Henrico, and Richmond City.

## **ATTACHMENT 4**

### **STATEMENT OF ANTICIPATED MINORITY IMPACT**

As described in Attachment 4 of the Commonwealth's submission of Chapter 6, 1991 Va. Acts (Spec. Sess. II), the 1991 redistricting plan created Virginia's first Congressional District with a majority black total and voting age population. After amendments by the 1992 and 1993 sessions of the General Assembly, the Third District contained a total black population of 64.37 percent and a black voting age population of 61.60 percent. The Third District essentially was a new congressional district created by combining part of the existing Third District with excess populations from existing First, Second, and Fourth Districts, each of which to varying degrees had excess population following the 1990 census. When the 1991 Third District was so created, the effect was to reduce black population percentages in the 1991 First, Second, and Fourth Districts.

Chapter 1 of the 1998 Acts of Assembly responds to the U.S. District Court's ruling in Moon v. Meadows, 952 F. Supp. 1141 (E.D. Va.), aff'd, 117 S.Ct. 2501 (1997), that the Third District was an unconstitutional racial gerrymander. In responding to the Court's order, the General Assembly modified the Third District to give it a more regular or compact shape, reunite split localities, and avoid dividing current precincts where localities are split. These changes affect the abutting First, Second, Fourth and Seventh Districts. All of the resulting district lines are more compact and contiguous. No precinct lines are split. The newly drawn districts maintain equal population with an extremely low deviation. The new district lines evidence a respect for traditional Virginia

districting criteria, including maintaining different Congressman in the four Congressional Districts (the First, Second, Third, and Fourth Districts) which house major military bases and/or contribute to a strong military-based economy. The revised Third District is only ninety-five miles long, and it respects traditional communities of interest shared along the James River. The new district lines are intended to minimize disruption and voter confusion to the greatest extent practicable.

Most of the population shifted from the Fourth District to the Third District in 1991 is restored to the Fourth District by Senate Bill 13 in order to reduce split localities and increase the compactness of the district. Affected localities include Portsmouth and Suffolk in the urban Tidewater and Prince George County and the Cities of Hopewell and Petersburg in Southside Virginia. All five localities are reunited under the plan.

The resulting plan creates a modified Third District which contains a 53.59 percent black total population and a 50.47 percent voting age population. The Fourth District now contains black total and voting age population percentages that are almost identical to those of the 1982 district under the 1990 census. The effect of the modifications which sought to address the Court's concerns in Moon v. Meadows re-establishes the Fourth District as a strong minority influence district, with a 38.59 percent black total population, and a 36.75 percent black voting age population.

**BLACK PERCENT OF DISTRICT POPULATIONS (1990 CENSUS)**

<b>District</b>	<b>1982</b>		<b>1991/1993</b>		<b>Senate Bill 13</b>	
	<b>Total</b>	<b>Voting Age</b>	<b>Total</b>	<b>Voting Age</b>	<b>Total</b>	<b>Voting Age</b>
01	30.34	28.63	17.63	16.65	18.58	17.62
02	23.95	22.41	16.62	15.49	18.47	17.22
03	28.99	27.13	64.37	61.60	53.59	50.47
04	38.81	36.95	32.09	30.66	38.59	36.75
05	23.86	22.11	24.78	22.89	24.78	22.89
06	11.18	10.36	11.49	10.62	11.49	10.62
07	10.76	10.34	10.00	9.36	11.48	10.94
08	11.89	11.36	13.36	12.47	13.36	12.47
09	2.60	2.53	2.48	2.42	2.48	2.42
10	7.17	6.78	5.77	5.57	5.77	5.57
11	N.A.	N.A.	8.18	7.47	8.18	7.47



## **ATTACHMENT 5**

### **STATEMENT IDENTIFYING PAST OR PRESENT LITIGATION CONCERNING THE CHANGE OF RELATED VOTING PRACTICES**

#### **Present Litigation**

At the time of this submission, the Office of the Attorney General of Virginia has not been served with pleadings commencing new litigation concerning the change in Congressional Districts provided in Chapter 1, 1998 Va. Acts of Assembly ("Chapter 1").

Pursuant to 28 C.F.R. § 51.19, the Office of the Attorney General of Virginia will notify and provide the Chief, Voting Section, Civil Rights Division, Department of Justice, with copies of any pleadings subsequently received that commence litigation concerning the change in Congressional Districts provided in Chapter 1.

#### **Past Litigation**

Virginia Code § 24.2-302, containing the current Congressional Districts for Virginia, was last amended by the Virginia General Assembly on April 7, 1993, and it was last precleared by the Department of Justice on August 20, 1993. On November 21, 1995, two residents and registered voters of Virginia's Third Congressional District filed suit in the United States District Court, Eastern District of Virginia, Richmond Division, alleging that the Third Congressional District was racially gerrymandered in violation of the Fourteenth Amendment of the United States Constitution. A three judge panel was convened pursuant to 28 U.S.C. § 2254. Moon v. Meadows, Civil Action No. 3:95cv942.

On January 17, 1996, the District Court granted the application of nine residents of the Third Congressional District to intervene as parties defendant. The intervenors were represented by counsel from the ACLU and NAACP Legal Defense Fund.

Cross-motions for summary judgment were denied.

The suit was tried over two full days on September 11-12, 1996 in Roanoke, Virginia. On February 7, 1997, the District Court issued its Memorandum Opinion and Order declaring that the Third Congressional District violated the Equal Protection Clause of the Fourteenth Amendment. The Court further enjoined the conduct of any further elections in that District until "the General Assembly enacts, and the Governor approves, a new redistricting plan for said district which conforms to all requirements of law, including the Constitution of the United States." The Memorandum Opinion appears in a published volume at Moon v. Meadows, 952 F. Supp. 1141 (E.D. Va. 1997). A true copy of the Memorandum Opinion and Order is attached hereto.

On March 7, 1997, the defendant and the intervenors both noted separate appeals to the United States Supreme Court. On June 27, 1997, the United States Supreme Court affirmed the District Court without opinion. This Memorandum Order is published at 117 S.Ct. 2501 (1997). A true copy of the Notice of this judgment to the Commonwealth of Virginia is attached hereto.

The State of Virginia remains subject to the jurisdiction of the Court in Moon v. Meadows for injunctive relief purposes. Pursuant to 28 C.F.R. § 51.19, the Office of the Attorney General of Virginia will notify and provide the Chief,

Voting Section, Civil Rights Division, Department of Justice, with copies of any pleadings subsequently received that commence litigation concerning the change in Congressional Districts provided in Chapter 1.

**Exhibit E**

Attachment 17

**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,

## Attachment 17

<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.

Attachment 17

**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

Attachment 17

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.



## Attachment 17

**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.

## Attachment 17

**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.

Attachment 17

**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).

Draft DLS/mrs

1/26/12

sprojects/redist/2012/submission ch 0 attachment 17

## **Exhibit F**

No. 3:13-cv-678-REP-LO-AKD

Dawn Curry Page, et al.,

v.

Charlie Judd, in his capacity as  
Chairman of the Virginia State Board of Elections, et al.,

Perkins  
Coie  
LLP

Ex. F  
to Declaration of John Roche

2011 HB5004 Footage  
04/12/11

**House of Delegates 2011 Floor Session Footage re. HB 5004  
Floor Sessions on 04-12-11 and 06-09-11**

**Del. Janis's Comments**

---

- **9:30 - 10:25**

Del. Armstrong: “Can the gentleman tell me what voting performance analysis did he conducted at the various congressional districts, particularly with regard to minority participation in the development of HB 5004?”

Del. Janis: “I would say to the gentleman that one of the paramount concerns in the drafting of the Bill was the constitutional and federal law mandate under the Voting Rights Act that we not retrogress minority voting influence in the Third Congressional District. And so we looked at the census data as to the current percentage of voting age African American population in the Third Congressional District and what that percentage would be in the proposed lines to ensure that the new lines that were drawn for the Third Congressional District would not retrogress in the sense that they would not have less percentage of voting age African American population under the proposed lines in 5004 that exist under the current lines under the current Congressional District.”

- **12:04 - 12:34**

Del. Janis: “I would say to the gentleman that I’ve been advised by lawyers who practice election law. That is not an area of law that I practice. And also I have been consulting with lawyers who have looked at the lines as they are drawn in this plan and they believe that these lines as they are drawn are constitutionally permissible and comply with all federal mandates under existing federal law and are defensible in either through the Justice Department review or through any litigation that might result. That these lines are constitutionally permissible and conform to all mandates of federal law.”

- **13:11 - 13:45**

Del. Janis: “I would say to the gentleman that the lines for HB5004 were the product of recommendations received from all 11 congressmen, including Congressman Scott in the Third Congressional District; and based on the census data that came from the census bureau and took into consideration, very specifically, the census bureau data about the, which indicates the current percentage of voting age population of African Americans within the Third Congressional District lines, and also took as part of the analysis what the voting age population of African Americans would be under the proposed lines.”



- **13:57 - 14:33**

Del. Janis: “I would say to the gentleman that I have described the method we used and the analysis that we did of the data that we received from the Census Bureau and that it was, we took into account population shifts which required the Third Congressional District to gain in population by approximately 63,975 residents in order to meet the 727,365 ideal congressional district benchmark, and also took into consideration the population data from the Census Bureau, specifically the population data involving voting age African American population.”

- **14:40 - 15:13**

Del. Janis: “What I’ll say is this is my legislation. I looked at this legislation. I looked at the data. We looked at the recommendations of the congressional district. We tried to reconcile, sometimes competing recommendations from various congressional members. We looked at the data from the Census Bureau. We were very ... I was most especially focused on making sure that the Third Congressional District did not retrogress in its minority voting influence. This... These lines as they appear in 5004, in my opinion, meet the criteria that is mandated by the Justice Department.”

- **23:40 - 24:18**

Del. Janis: “I would say to the gentleman that the criteria that I applied was that the Voting Rights Act mandates that there be no retrogression in minority voting influence in the Third Congressional District, which is the only majority-minority district in Virginia. So, what this bill attempts to do and what this plan, and what the lines in this plan do, is they comply with both the United States Constitution, the Constitution of Virginia and the Voting Rights Act, as well as the zero variance rule which is required under federal case law in this manner to ensure that the Third Congressional District did not retrogress in its minority voting influence.”

- **24:28 - 24:35**

Del. Janis: “I think I’ve answered the gentleman’s question. What we tried to do is not retrogress the Third Congressional District.”

- **24:57 - 25:55**

Del. Janis: “I have answered the gentleman now seven times that the methodology that we used, the methodology that I used in drawing these lines was that I focused on the Third Congressional District and ensuring, based on recommendations that I received from Congressman Scott and from all 11 members of the congressional delegation, Republican and Democrat, one of the paramount concerns and considerations that was not permissive and nonnegotiable under federal law and under constitutional precedent, is that the Third Congressional District not retrogress in minority voter influence. And that’s how the lines were drawn and that was the primary focus of how the lines in House Bill 5004 were drawn, was to ensure that there be no retrogression in the Third Congressional District because if that occurred the plan would be unlikely to survive a challenge either through the Justice Department or the courts because it would not comply with the constitutionally-mandated requirement that there be no retrogression in the minority voting influence in the Third Congressional District.”

- **38:36 - 39:20**

Del. Janis: “I would say to the gentleman that this plan is based on the criteria that I’ve outlined already, which is, the constitutional mandate that it comply with one person one vote; Virginia’s constitutional mandate; all applicable federal law; all applicable federal case law; the Voting Rights Act most especially; that it complies with the zero retrogression rule; that it complies with the zero variance rule; and it was the product of recommendation that were solicited from the current congressional delegation and that there were a series of public meetings both last year and this year where the public was given notice and an opportunity to be heard. And that’s the methodology that was used in determining what these lines are in this legislation.”

## **Exhibit G**

1 THE COMMITTEE ON PRIVILEGES AND ELECTIONS  
2 PUBLIC MEETING  
3  
4

---

5  
6  
7 BEFORE: MARK COLE, CHAIRMAN  
8  
9

10 PLACE: COMMONWEALTH OF VIRGINIA  
11 GENERAL ASSEMBLY BUILDING  
12 HOUSE ROOM C  
13 RICHMOND, VIRGINIA 23218  
14

15 DATE: APRIL 11, 2011  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

1                   DELEGATE JONES: Just some housekeeping real  
2 quickly. I want to point out to all the members that you have in your  
3 package a comment report distributed to all the members and it includes up  
4 until a few days ago all the comments concerning redistricting that have  
5 been submitted to the website for you all's review. And I know some of you  
6 at least have been reviewing the comments online and so I just wanted to  
7 make sure that that was available to everyone. Okay, the purpose of today's  
8 meeting is to take up, consider bills dealing with Congressional redistricting  
9 and we do have at least one plan that's been submitted that's on the docket  
10 today. And that's I believe it's House Bill 5004 and the patron is Delegate  
11 Janis. And I'll ask Delegate Janis if you would please present yourself.

12                   DELEGATE JANIS: Thank you, Mr. Jones. House Bill  
13 5004 is a bill to redraw the boundary lines for each of the eleven Virginia  
14 Congressional Districts, the ones that are ten-year constitutionally mandated  
15 reapportionment. The boundary lines reflected in House Bill 5004, the  
16 legislation here in front of you were drawn based on several criteria. First,  
17 the districts were drawn to conform with all mandates from the United  
18 States Constitution and the Constitution of Virginia and specifically to  
19 comply with the requirement that there be one person, one vote. This was a  
20 significant challenge given the dramatic and non-uniform shifts in  
21 population across the Commonwealth over the past ten years, most  
22 specifically the dramatic population growth in parts of Northern Virginia  
23 with corresponding population loss of parts of Southside, Southwest and  
24 even parts of the state that might grow but don't grow at the same rate. The  
25 second criteria were districts were drawn to conform with all mandates from

1 all applicable federal law, most notably the Urban Rights Act mandate that  
2 there be no retrogression in minority voters in the Third Congressional  
3 District and also the Zero Variance Rule that mandates that each of these  
4 eleven Congressional Districts must be drawn so that they encompass a  
5 population no fewer than 727,365 residents but no more than 727,366. So  
6 the Zero Variance means down to a one person difference in each of these  
7 eleven districts and each have more than 700,000 residents. Third, the  
8 districts are drawn with respect to the greatest degree possible the will of the  
9 Virginia electorate as it was expressed in the November 2010 Congressional  
10 elections. They're based on the core of the existing Congressional Districts  
11 with a minimal amount of change or disruption necessary consistent with  
12 the need to either expand or contract the territory of the districts based on  
13 whether they've lost population, gained population or gained population at a  
14 rate that was less than they needed in order to meet the 727,365 benchmark.  
15 The plan respects the will of the electorate by not cutting currently elected  
16 Congressmen out of the districts nor do we presume to throw currently  
17 elected Congressmen together in the districts. We try to respect the fact that  
18 November 2010, the voters spoke in each of these districts, they elected the  
19 current representatives and what we tried to do was to be respectful of  
20 where they lived and not try to lump them together or cut them out of the  
21 districts. You'll also note that the plan attempts where possible to keep  
22 jurisdictional localities intact and to reunite where possible localities and  
23 jurisdictions which are currently fractured or splintered because of previous  
24 redistricting plans. In fact, if you look at this plan, it's [unintelligible]  
25 jurisdictions of the current Congressional District lines, three counties, the

1 County of Allegheny, the County of Brunswick and the County of Caroline  
2 are reunited in a single Congressional District under this plan. One city,  
3 Covington, has been reunited. And I believe Martinsville and Salem are  
4 now intact as well. Wherever possible, this plan also preserves, seeks to  
5 preserve existing local communities of interest. They're smaller than a  
6 jurisdiction but are considered to be a sort of a community of interest and to  
7 reunite such communities that may have been fractured in the course of  
8 redistrict [unintelligible]. One example that comes to mind is Reston up in  
9 Northern Virginia. District boundary lines were drawn based in part on  
10 specific and detailed recommendations provided by each of the eleven  
11 currently elected Congressmen, both the Republican members and the  
12 Democrat members. And they each gave significant, specific and detailed  
13 recommendations about how they could draw the lines or the boundaries or  
14 what would make sense for their particular district in order to preserve the  
15 local communities of interest and the need to either expand or contract their  
16 district to meet the 727,365 person benchmark. I personally spoke with  
17 each member of the Virginia Congressional Delegation, both the Republican  
18 members and the Democrat members and they have each confirmed with me  
19 that the lines for their district as they are reflected in House Bill 5004  
20 conform to the recommendations that were provided and the information  
21 that was provided by them. And each member of the delegation, both  
22 Republican and Democrat, has confirmed for me that they support the way  
23 the lines for their specific district are drawn in House Bill 5004. And so,  
24 that's basically the legislation, I'm going to answer questions. There is one,  
25 for taking questions of the Committee, I have to make one technical

1 amendment. And if you look at page four of the bill, in the Tenth  
2 Congressional District if you look at line 206, there is a precinct in Fairfax  
3 called Lee's Corner, number 920, and you'll see right next to it is Lee's  
4 Corner West, which is 927. There seems to be some discrepancy between  
5 State Board of Elections and the local registrar but I do have something here  
6 from the Fairfax County, Virginia Electoral Board and General Register's  
7 website. They identified precinct 920 in Fairfax on their website as Lee's  
8 Corner East and then there's a 927, which is Lee's Corner West. We have  
9 identified 920 in this legislation as Lee's Corner and I think probably out of  
10 an abundance of caution that is a technical amendment that I probably  
11 would like to move at this time.

12 UNIDENTIFIED MALE: Second.

13 CHAIRMAN: Okay, there's a motion. There's a motion  
14 and a second for a technical amendment renaming or correcting the name of  
15 one of the precincts of Fairfax. Any discussion on this amendment? All  
16 those in favor of adopting the amendment say "Aye." (Ayes.) Opposed?  
17 (no response) All right, the amendment now is in force.

18 DELEGATE JANIS: And with that, Mr. Chairman, I  
19 stand ready to answer any questions anyone might have of me.

20 CHAIRMAN: Are there any questions of Delegate  
21 Janis?

22 UNIDENTIFIED FEMALE: Delegate Janis, you  
23 referenced that you had talked with all eleven Congressional members and  
24 they all complied or were all saying the lines, they were in agreement of  
25 these lines as drawn?



1 DELEGATE JANIS: I want to be very precise what each  
2 member said. I spoke with each member of the delegation, Republican and  
3 Democrat. Each member said to me that the lines for their district, as their  
4 district appears in this plan, conform to their recommendations that they  
5 provided and the information they provided and that they support the lines  
6 for their district and the lines for their district as drawn in this plan.

7 UNIDENTIFIED FEMALE: I just wanted to make sure  
8 because I currently physically live in the Fourth Congressional. This plan  
9 puts me in, physically in the Third Congressional and I talked with  
10 Congressman Scott and he had some variations in plans. So, I just want to  
11 feel comfortable. So you have talked with Congressman Scott and he agrees  
12 with what you have here?

13 DELEGATE JANIS: I think to characterize, I don't want  
14 to overstate what he said and I don't want to understate what he said. I  
15 asked him does this line reflect the input you provided to me.

16 UNIDENTIFIED FEMALE: Okay, thank you.

17 DELEGATE JANIS: I said do you support this line as  
18 it's drawn. Given the political realities of a Democrat-controlled Senate, a  
19 Republican House, dividing government given what the law requires, he  
20 believes that this line is [unintelligible]. He supports the line for the Third  
21 District as drawn in 5004.

22 UNIDENTIFIED FEMALE: Thank you.

23 DELEGATE JANIS: We'd like different lines; we'd like  
24 better lines. Are there ways to improve the lines? I didn't even get into any  
25 of that. And I didn't get into any of that with any of the other members as to

1 whether they thought they could improve these lines. Just that they support  
2 the lines for their district as the lines for their district are drawn in this plan.

3 CHAIRMAN: Delegate Spruill?

4 DELEGATE SPRUILL: Yes, my question, unless there's  
5 something [unintelligible] –

6 UNIDENTIFIED MALE: Use your microphone.

7 DELEGATE SPRUILL: [unintelligible]. So, my district,  
8 they ask me, they say Spruill, did Bobby Scott approve of this new  
9 jurisdiction the way it is now. I'm going to say according to Bill Janis,  
10 [unintelligible] according to Bill Janis, Bobby Scott approved this.

11 DELEGATE JANIS: That's what he told me when I  
12 [unintelligible] through.

13 DELEGATE SPRUILL: Thank you very much.

14 CHAIRMAN: Delegate Scott?

15 DELEGATE SCOTT: Just a question about individual  
16 jurisdictions. Do you have any idea about how many splits there are for  
17 towns and cities? Are we pretty limited, or what?

18 DELEGATE JANIS: There's fewer split, there's fewer  
19 localities, that is counties, cities or towns split under this proposal than there  
20 are under the current Congressional lines. The ones I've read, I believe the  
21 difference is seventeen, there's 21, I believe, counties, cities or towns that  
22 were split under the current plan. This gets us down to, I believe, it's  
23 seventeen. I don't have the total but I can get that for you. But I can tell  
24 you the ones that are reunited that are currently split are Allegheny,  
25 Brunswick and Caroline Counties and then Covington, the City of

1 Covington is reunited. Martinsville, I believe, is reunited as well and the  
2 City of Salem is reunited. So there are fewer split counties, cities or towns  
3 under this proposal than there are under the existing plan.

4 CHAIRMAN: Further questions [unintelligible].

5 UNIDENTIFIED MALE: There have been some rumors  
6 around about the consideration of a minority influence district. Can you  
7 give me any feedback on that? What's the status and can you give some  
8 consideration to that?

9 DELEGATE JANIS: I'm not an election lawyer. I had  
10 not heard, what we, what one of the criteria applied was today we've got  
11 Congressman Scott in the Third Congressional District. That is the only  
12 minority majority district in the delegation. Under the current  
13 Congressional lines, the Third Congressional District has a total African  
14 American population of about a 55.33%. Under these proposed lines,  
15 there's a 3.17% change. There's a 58.50% African American total  
16 population. If you want to get voting age population, there is about a 4.3%  
17 change. It goes from being 52.62% voting age to 57% voting age. So  
18 mindful that the voting rights act requires us not to retrogress that district,  
19 what these lines reflect is under the new proposed lines, we can have no less  
20 than percentages that we have under the existing lines with the existing  
21 census data from 2011, the updated census data. So we drew the majority  
22 minority district, the Third in accordance with the Voting Rights Act. And  
23 that was basically what we did. I didn't look at drawing the other districts  
24 because one of the other criteria which I used was try not to disrupt the lines  
25 of the current districts any more than you have to given population shifts, et

1 cetera. If you actually look at the map and then you did an overlay, I can get  
2 a graphic that would work very well. I've got one here, it's not a very good  
3 graphic and I can send some up to you but the brown line is going to be the  
4 delta or change, if you look at this, the district boundaries don't change very  
5 much under this plan and that was deliberate. So, I've heard there's some  
6 proposals about other ways you could have drawn the line. I can't speak to  
7 why it wasn't drawn that way. I can only speak to why it was drawn this  
8 way.

9 CHAIRMAN: All right, Delegate Spruill.

10 DELEGATE SPRUILL: I had talked with Congressman  
11 Scott and he has always indicated to me that he could live with a less  
12 number of [unintelligible] and I was talking about, took Petersburg, which is  
13 majority black, and put them into the Third, and made Bobby's precinct  
14 even more black than what it is. So my first question is what is the  
15 percentage of minority in Petersburg now and what is proposed?

16 DELEGATE JANIS: I didn't get down on a jurisdiction  
17 by jurisdiction basis. What I have are the numbers for the total African  
18 American population in the Third District under the current lines and the  
19 total African American percentage under the proposed lines.

20 DELEGATE SPRUILL: That's what I want to know  
21 about, give me the Fourth first.

22 DELEGATE JANIS: The total African American  
23 population of the Fourth or the Third?

24 DELEGATE SPRUILL: The Fourth, please sir.

25 DELEGATE JANIS: The Fourth District. Today in the

1 Fourth Congressional District, the total African American population is  
2 33.66%.

3 DELEGATE SPRUILL: All right.

4 DELEGATE JANIS: Under the proposed lines, the total  
5 African American population would be 31.60%.

6 DELEGATE SPRUILL: Thirty one point?

7 DELEGATE JANIS: 31.6. So it's just about, it's 2.06%  
8 change.

9 DELEGATE SPRUILL: Can you give me the Third now  
10 please?

11 DELEGATE JANIS: The Third District goes from  
12 55.33% under the current lines to 58.50% under the proposed line. That's  
13 3.17%.

14 DELEGATE SPRUILL: The next question then, why  
15 would you increase, why would you increase the number of the Third  
16 Congressional District to more approximately 55 to 58, when already  
17 [unintelligible] tradition it will be hard for a black not to win it unless  
18 there's a lot of candidates [unintelligible] couldn't win it. Why would you  
19 increase it from 55 to 58 and drop to 30 and drop the Fourth down?

20 DELEGATE JANIS: If you take the numbers I just told  
21 you, those are the total African American population.

22 DELEGATE SPRUILL: Yes, sir.

23 DELEGATE JANIS: And I've looked at the voting age  
24 African American population. There's a significant difference in the Third  
25 over the Fourth. So, for example, in the Third Congressional District, the

1 voting age African American population under the current lines is 52.62%.  
2 Under the proposed, it becomes 57%, okay? Now, if you look at the Fourth  
3 Congressional District, the Fourth Congressional District, the current voting  
4 age African American population is 32.00% but the voting age proposed is  
5 31.7. So, when you look at all those numbers together, there's a significant  
6 difference between, there's a much greater difference between total African  
7 American population versus the voting age African American population in  
8 the Third District compared to the Fourth District. The Fourth District  
9 numbers, the total African American population tracks very closely with  
10 voting age there. There's a bigger delta in the Third. Given all the  
11 information I received from Congressman Scott, Congressman Forbes and  
12 every other one, those are the two that gave recommendations on those  
13 lines. The way those two lines come up against each other are based on the  
14 recommendations that they provided to us.

15 DELEGATE SPRUILL: So you do think that's the  
16 problem to prove that though. I'm just looking at, that's why I was harping  
17 on the question to you about talking to Congressman Scott, who said that he  
18 doesn't need going from 55 to 58. He doesn't need that. He said it would  
19 be more feasible if it would stay, I'm trying to figure out why you would  
20 take Petersburg out of the Fourth. Moving from Third from 33.66 to 31.6,  
21 I'm saying how what [unintelligible] taking a group of blacks out of one  
22 area put them into another block that really don't need them. We already  
23 had [unintelligible] in the Third already. And because Petersburg is south  
24 [unintelligible] votes and a lot of people trying to put tax money by moving  
25 them over a black district that is already heavy black.

1                   DELEGATE JANIS: What I'm saying also is this is not  
2 the only criteria that we had to apply using the Third District or the Fourth  
3 District. After you did this, you also had to make sure or before and after  
4 this you had to make sure the final number in both districts was no less than  
5 727,365 no more than 727,366. So this isn't the only criteria that we had to  
6 apply. The other criteria that had to be applied was every one of the districts  
7 has to be in that Zero Variance whether it was a minority majority district or  
8 whether it was not. So, that's why looking at that criteria which is  
9 paramount to count one person one vote Zero Variance, those are, one  
10 person one vote is a Constitutional requirement, Zero Variance is under  
11 federal law and the other main legislation from the federal government and  
12 the Voting Rights Act. Given the three, this was the way we drew the lines.  
13 I can't speak to, I'm sure there are other ways the line could be drawn. All I  
14 can speak to is that we drew it this way because we had a recommendation  
15 from both Congressmen, we had the data from the census, we had the  
16 requirement under the Constitution that it has to be one person one vote and  
17 we had the requirement under federal law that they had to be drawn with  
18 Zero Variance.

19                   DELEGATE SPRUILL: So you're saying to me that this  
20 was not drawn to take Petersburg out just to take blacks out of the district  
21 that were now [unintelligible] it will be hard for a black person to run in the  
22 Fourth now because you're taking a group of strength voters out, it'll be  
23 hard for a black to even run in the Fourth now.

24                   DELEGATE JANIS: I would say, I don't want to offer  
25 an opinion on whether or not an African American candidate could be

1 successful in the Fourth or not. All I can tell you is that the numbers before  
2 and after the change in the voting age African American population in the  
3 Fourth Congressional district was 1.3%.

4 DELEGATE SPRUILL: Thank you, Chairman.

5 CHAIRMAN: And just to kind of follow up on that, the  
6 current, this is currently drawn, this is your Third District under population  
7 or over population?

8 DELEGATE JANIS: Well, as the Third District is  
9 currently drawn, the ideal Congressional District being 727,365, the Third  
10 Congressional District needed to gain 63,975 residents in order to meet the  
11 727,365 number. So, it was one of the districts that needed to grow by  
12 about sixty thousand in order to meet the Zero Variance requirement. That's  
13 why I said, you know, and one criteria applied was that we don't retrogress  
14 African American [unintelligible] in the Third. But we're also under the  
15 requirement that each one has to meet the 727,365. The Third District  
16 started out short 63,975 residents under the current census. So it narrowed  
17 it, with our variance being 1% on some of our plans and 2% on the others,  
18 we've got a significant amount of flexibility here. You have to basically be  
19 within one person. So, the error range of options that were available to us.

20 CHAIRMAN: All right, Delegate Alexander.

21 DELEGATE ALEXANDER: Good afternoon, Mr.  
22 Chairman. I have a question for Delegate Janis. Could you tell me whether  
23 or not the Taylor precinct in the City of Norfolk is currently split?

24 DELEGATE JANIS: Old one or new one?

25 DELEGATE ALEXANDER: This one here.



1 DELEGATE JANIS: Not without looking it up in here.  
2 What's it look like on your, you're asking the question for a reason, it's  
3 legislation.

4 DELEGATE ALEXANDER: Mr. Chairman, under your  
5 proposed bill, Taylor Elementary School is split. And it's split in a way that  
6 I just don't follow the logic. It has 73 voters that are placed in the Second  
7 Congressional District and over 4,000 voters in the Third.

8 DELEGATE JANIS: I don't know why that was done.

9 DELEGATE ALEXANDER: Mr. Chairman, according  
10 to my register, to split it recent possibly about thirty five to forty thousand  
11 dollars to gear up to outfit a precinct that is split. For 73 voters to be placed  
12 in the Second Congressional District in Taylor Elementary School precinct  
13 and over four thousand voters that will be voting in the Fourth, I just don't –

14 DELEGATE JANIS: I can't tell you specifically that but  
15 I will tell you because of this variance, Zero Variance rule, what we found in  
16 each of the Congressional Districts, you reach the point where you've got  
17 sort of rough boundaries of where the line's going to go but you've got to  
18 have no less than 727,365 and no more than 737,366. What that meant was,  
19 I didn't sit there and actually draw the map but once you get the broad  
20 guidelines of what we're trying to do, you literally had somebody who had  
21 to by trial and error flip to the census block one way or the other until you  
22 got the number right sometimes you had to flip, well, and so each of these  
23 Congressional Districts has at least one split precinct in them precisely  
24 because you had to get to a Zero Variance, 727,365 or 727,366. So there  
25 was no way to do that because the lowest, the smallest unit you had to work

1 from was a census form. So I'm assuming the reason that this was done was  
2 because when we were trying to actually balance the final number within  
3 the broad guidelines and parameters and recommendations of generally  
4 where the lines should go. It was impossible not to split at least one  
5 precinct or more in each of these districts in order to find or get to the  
6 number with one person difference in each Congressional District.

7 DELEGATE ALEXANDER: I understand that about the  
8 precincts but as I look through the bill, I can only find one other precinct  
9 that has less than 73 voters per precinct, only one other precinct that has less  
10 than 73 voters. I understand that you gave them Zero Variance  
11 [unintelligible] and not to regress, but it's hard for me to understand sixty  
12 voters, 73 voters, to split a precinct when the split is not even a portion of  
13 4,150 and 73 voters in a precinct, just the map, justify the cost of splitting  
14 the precinct there should have been more voters because of when you split  
15 precincts.

16 DELEGATE JANIS: [unintelligible].

17 CHAIRMAN: All right, just to kind of follow up on  
18 that, in order to make that precinct whole, you would have to since there's  
19 Zero Variance in these plans, you would have to find 73 voters to move to  
20 the other district then, then you may end up with the same problem, just in a  
21 different precinct.

22 DELEGATE JANIS: Well, you're [unintelligible] based  
23 on the precincts, you're flipping it based on census blocks. The census  
24 block was the smallest unit you could work on. But I believe given the  
25 parameters of the guidelines and the recommendations we received from the

1 affected Congressmen, that's the way it was done. I'm sure there are other  
2 ways it could have been done but I can't speak to why it was done and why  
3 it wasn't done some other way. I can only say the reason it was done this  
4 way was I believe so that you could get the right number for the Zero  
5 Variance on both sides of the line. And it requires you invariably to split at  
6 least one precinct, at least one precinct in every single Congressional  
7 District because not surprisingly you don't have 727,000 people in each  
8 district, initially.

9 CHAIRMAN: Any other questions, comments? All  
10 right, we're going to open it up to public comment. Is there any member of  
11 the public that wishes to speak to this bill? If so, please step forward and  
12 identify yourself. Hearing no one wishes to speak, there's a motion to  
13 record House Bill 5004 as amended. Is there a second? (Second.) Any  
14 other discussion? All those in favor of recording House Bill 5004 as  
15 amended will vote yes. Has everyone voted? The clerk will close the roll.  
16 The bill is recorded. If there is no other business to come before this  
17 committee, the committee will arise.

18

19 PROCEEDINGS CONCLUDED

20

21

22

23

24

25

1 CERTIFICATE OF THE TRANSCRIBER

2  
3 I, Laura Morefield, do hereby certify that I transcribed the  
4 recorded proceedings of **The Committee of Privileges and Elections**  
5 meeting dated April 11, 2011. I have transcribed the tape to the best of my  
6 ability to understand the proceedings herein.

7 I further certify that the foregoing transcript, pages 1  
8 through 16 is a true and accurate record of the proceedings herein reported,  
9 to the best of my ability to understand the tape.

10 Given under my hand this 5<sup>th</sup> day of May, 2011.

11  
12  
13  
14 \_\_\_\_\_  
15 Laura Morefield  
16  
17