

Integrity Commission Co-Chairs' Redistricting Recommendations

The current methodology used for reapportionment of congressional and legislative districts in Virginia has many negative consequences that have long been acknowledged, but have yet to be confronted in a serious effort at reform. They include:

- When politicians choose who they will represent, rather than being chosen by their constituents, that decision is based predominantly on personal political preservation and enhancing the number of districts represented by the party that controls the redistricting process. Gerrymandering is a self-evident conflict of interests, inherently undemocratic and a disservice to the communities and people of the Commonwealth.
- A redistricting process that diminishes the right of voters to choose their own leaders reinforces public dissatisfaction, discourages political engagement, is a major cause of legislative gridlock and contributes to a decline in voter participation in the political process. It's illustrative that Americans' job approval rating for Congress averaged just 15 percent in 2014, according to Gallup polls.
- The proliferation of split precincts, excessive partitioning of localities and illogically drawn political districts make politics opaque and bewildering, causing confusion among voters and further estranging them from civic engagement and their elected leaders.
- Because of partisan redistricting, legislators are more likely to represent a district comprised of subsets of multiple localities. These piecemeal districts make it more difficult for legislators to provide meaningful representation of those communities and dilute the voice of affected localities during the legislative process.

Members of the Integrity Commission believe that to the greatest extent possible, the state's congressional and state legislative districts should be drawn without regard to partisan considerations. The commission believes that the interests of the citizens should be the highest priority in the redistricting process. In keeping with that guiding principle of a citizen-centered approach, the Co-chairmen of the Integrity Commission propose the following recommendations for consideration during the commission's Dec. 22 meeting. These recommendations can be divided into three categories:

- Nonpartisan criteria to be incorporated into the Code of Virginia.
- Pursuit of an amendment to the Virginia Constitution.
- A short-term process for handling 2015 redistricting decisions.

Nonpartisan criteria to be incorporated into the Code of Virginia

We recommend that the 2015 General Assembly adopt legislation establishing nonpartisan criteria to govern congressional and state legislative redistricting decisions. These criteria would be incorporated into the Code of Virginia and would guide decisions whether they are made by an independent redistricting commission or by the legislature. The criteria are in keeping with draft legislation prepared by One Virginia 2021, and we believe they represent an appropriate framework for guiding future reapportionment decisions.

Every electoral district shall be constituted so as to adhere to the following criteria. The criteria are listed in ranked order to reflect the priority to be given each one. They are:

1. **Respect for Existing Political Subdivision Boundaries** – Existing political subdivision boundaries shall be respected to the maximum extent possible. This includes county boundaries, city boundaries, town boundaries, magisterial and councilmanic districts, and voting precincts. If a departure from existing political subdivision boundaries is necessary in order to achieve compliance with other districting criteria, such as equal population or racial fairness, then the district

shall be drawn utilizing clearly observable physical boundaries, such as highways, roads, railroad lines, rivers, streams, or any other natural or man-made features observable on official maps.

2. **Compactness** – Compactness refers to the shape of a district. The Commission should avoid drawing districts that are oddly shaped or with contorted boundaries, unless justified because the district adheres to political subdivision lines. Fingers or tendrils jutting out from a district core should be avoided, along with thin, elongated districts, or districts with multiple, central cores connected by thin strips of land or water. There are multiple, numerical measures of individual and average district compactness. The Commission should employ one or more of these mathematical measures to provide an objective assessment of district plan compactness, statewide, and district by district.
3. **Racial and Ethnic Fairness** – Districts shall be drawn in accordance with the requirements of state and federal laws, and judicial decisions interpreting those laws, addressing racial and ethnic considerations, including, but not limited to, the Equal Protection Clause of the Constitution of the United States, and the provisions of the Voting Rights Act of 1965.
4. **Equal Population** – For state legislative districts, population shall be substantially equal to the population of every other district as practicable. The Commission shall be guided by the most recent federal and state judicial decisions defining standards for equal population for state legislative districts, including permissible deviations from ideal population if the deviation is necessary in order to achieve some other, legitimate districting criteria. For congressional districts, population shall be as nearly equal as practicable. The Commission shall be guided by the most recent federal and state judicial decisions defining standards for equal population of congressional districts, including permissible deviations from ideal population if the deviation is necessary in order to achieve some other, legitimate districting criteria.
5. **Contiguity** – A district is contiguous if a person can travel from one point in the district to any other point without crossing the district's boundary. Point contiguity is not permissible. Districts divided by water will be considered contiguous if a common means of transport, such as a bridge or ferry, connects

the two sides of the district, or if the water, river or bay were removed, the land on one side would be wholly contiguous with the land on the other side.

- 6. Political Data** – The Commission shall not be provided with political data or election results as part of its database, and no district shall be drawn using political data or election results in order to favor a political party or incumbent legislator or member of Congress. These data include addresses of incumbent legislators or members of Congress, political affiliations of registered voters, or previous election results. This limitation will not apply to minority or ethnic districts drawn under the Racial and Ethnic Fairness part of this section if an analysis of elections data is required in order to determine if racial or ethnic minorities can elect candidates of their choice.

Pursuit of an amendment to the Virginia Constitution

We recommend that the 2015 General Assembly give approval to the first passage of an amendment to the Virginia Constitution creating an independent redistricting commission. Following a second vote in support of the amendment by the 2016 General Assembly, the constitutional revision would be submitted to the voters of the Commonwealth in November 2016 .

The independent commission would be granted the power to draw state legislative and congressional districts. Commission members would be entrusted to apply the statutory nonpolitical redistricting criteria described above in fulfilling that task.

The commission would be comprised of five members, one each chosen by the speaker and minority leader of the House of Delegates and one each chosen by the majority leader and minority leader of the state Senate. The four members so chosen would then select the fifth member. In the event that 60 calendar days pass between the selection of the initial four members and the selection of a fifth member, the Chief Justice of the Virginia Supreme Court would appoint the fifth member.

A short-term process for handling 2015 redistricting decisions

The U.S. District Court for the Eastern District of Virginia earlier this year declared that Virginia's Third congressional district has an unconstitutional configuration.

Neighboring districts will be affected by any redistricting decisions that are made about the Third District. That ruling has given fresh immediacy to the need for nonpartisan redistricting reforms. Recognizing that a permanent, constitutional solution requires a two-year process, the co-chairmen recommend the following interim process for resolution of the congressional map should a redistricting occur in 2015.

First, we recommend that the Integrity Commission strongly urge the Governor and General Assembly leadership to work together on new congressional maps that meet the criteria laid out previously in our recommendations.

If upon the 10th business day following the convening of the 2015 regular General Assembly session the Governor and General Assembly leadership have failed to agree on a process for meeting the above goal, we recommend that the Governor appoint a redistricting commission of his choosing and task its members with recommending congressional districts that meet the nonpartisan criteria endorsed by the Integrity Commission.