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THE COMMITTEE ON PRIVILEGES AND ELECTIONS
PUBLIC MEETING

BEFORE: MARK COLE, CHAIRMAN

PLACE: COMMONWEALTH OF VIRGINIA
GENERAL ASSEMBLY BUILDING
HOUSE ROOM C
RICHMOND, VIRGINIA 23218

DATE: APRIL 11, 2011

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.

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PROCEEDINGS CONCLUDED

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1 CERTIFICATE OF THE TRANSCRIBER

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I, Laura Morefield, do hereby certify that I transcribed the recorded proceedings of **The Committee of Privileges and Elections** meeting dated April 11, 2011. I have transcribed the tape to the best of my ability to understand the proceedings herein.

I further certify that the foregoing transcript, pages 1 through 16 is a true and accurate record of the proceedings herein reported, to the best of my ability to understand the tape.

Given under my hand this 5th day of May, 2011.

Laura Morefield