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## SB 106 Congressional and state legislative districts; standards and criteria

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## **REDISTRICTING: A CASE FOR NONPARTISAN ACTION**

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### **PROJECT DESCRIPTION**

Senate Bill 106 was proposed during the 2018 General Assembly Session to address redistricting in anticipation of the 2020 U.S. Census and 2021 redistricting process in Virginia. Redistricting is done at the state level by the General Assembly and approved by the Governor. In the past, redistricting efforts have shown to favor of incumbents in the state and are less competitive. The Voting Rights Act is broad, which has allowed states to interpret and assess competitiveness in legislative districts differently. The current Virginia map shows a state that favors one party over the other, and appears to pack minority voters into certain districts, which the Appeals Court in *Bethune-Hill v Virginia State Board of Elections (2018)* ultimately determined was illegal. This report explores options for optimizing minority voting power and increasing opportunity for minority representation in the Virginia legislature.

### **LEGISLATION OVERVIEW**

#### Redistricting in the Commonwealth

Virginia has historically used redistricting to dilute minority voting power through “cracking” and “packing”. Cracking involves splitting communities amongst many majority-white districts to eliminate minority voting power. Packing places as many minority votes as possible into one district, to minimize the number of seats that minorities could win control (Levitt, 2018). In 2013, *Shelby County v. Holder* invalidated the preclearance requirement, meaning redistricting bills no longer require review by the Department of Justice, and litigation is the only way to challenge redistricting. Prior to 2013, Virginia’s redistricting plans were subject to review by the Department of Justice as per Section 5 of the Voting Rights Act to address a history of discrimination against minority voters (Pierce & Rabinowitz, 2017). The Voting Rights Act required Virginia to adhere to “preclearance”, requiring any changes made to legislative or congressional districts to be reviewed by the Department of Justice. Virginia was identified as one of the “preclearance” states by a formula that took into account voter turnout statistics and use of voter suppression devices such as literacy tests or voter identification (Cable, 2013).

Lawsuits have been filed in response to 2013. In *Bethune-Hill v Virginia State Board of Elections (2018)*, the Supreme Court instructed the district court to reexamine current legislative maps for evidence of racial bias and gerrymandered districts that dilute the impact of African American voters (Barnes and Schneider, 2017). In June 2018, the district court ruled that 11 of the state legislative districts had been subject to racial gerrymandering and needed to be redrawn by October 30, 2018 (Levitt, 2018).

Several proposals have been put forth by members of both the Democratic and Republican parties to redraw the legislative districts before October 30, 2018; however, there has been widespread disagreement on how the lines are to be drawn. The federal court has appointed a

special expert to redraw state legislative districts by March 28, 2019 due to the impasse among the legislature (Associated Press, 2018).

SB106 is a redistricting bill, focused on setting forth new criteria for congressional and legislative districts. It requires the following criteria be considered in drawing districts: population, requirements of state and federal law, existing political boundaries, contiguous and compact territory, and communities of interest.

#### Goals and Implementation

One of the main goals for SB106 was to address issues of compactness. While compactness was not specifically defined in the legislation, SB106 stipulated that the General Assembly must provide numerical measures of individual and average district compactness to provide an “objective assessment.” Compactness is generally understood to mean how regular in shape a district is and how close a district’s boundaries are to its geographic center (Kaufman, 2018). The more certain areas protrude from the rest of the district, the less compact the district becomes. The latest boundary lines drawn from the 2010 census redistricting effort, split up many localities (Smith, 2018). Senator David Suetterlein noted in a committee hearing that his own district split up many communities in Southwest Virginia and he wanted to address the issue of compactness through SB106 (Suetterlein, 2018). Members of the Virginia Legislative Black Caucus and Governor Ralph Northam have expressed concerns that the bill did not go far enough in protecting minority votes. (Office of the Governor, 2018). Governor Northam stated that criteria should “prohibit districts that favor or disfavor any political party, incumbent legislator, member of Congress or individual or entity”.

Existing procedures for redistricting rely on magistrates and local governments to update districts for their constituents without a central statewide mapping system. According to the Department of Elections, the state does not have a central mapping system to help verify that voters are in the correct districts. SB 106 was seeking to establish more equitable approach to the redrawing of the boundaries that does not dilute communities of interest voters. Communities of interest is defined by SB 106 as homogeneous neighborhoods or separate groups of people living in an area with similar interests or needs in transportation, employment, or culture. Racial and ethnic minorities are not explicitly defined as communities of interest, and leaves the redistricting process at risk for “race-blind” strategies that leave historically marginalized and disenfranchised communities without a voice due to dilution across multiple districts. The Republicans currently control the House and Senate and could therefore control the legislature for the 2020 redistricting. Without the Department of Justice intervening, it remains to be seen how the legislative districts will be drawn.

#### Redistricting: Understanding the Players

Redistricting was last revisited in Virginia in 2011 with HB 5005, supported by both Republicans and Democrats. HB 5005 intended to provide objective criteria for redistricting to create competitive congressional and legislative districts in the Commonwealth. However, neither party, regardless of who is in power, has taken steps to completely ensure this (Levitt, 2018). Lines have been drawn to keep certain candidates from having competitive elections, effectively keeping their power over that district. Incumbents are less likely to change boundary lines due to name recognition with their voters and assumed continued voter loyalty (Levitt, 2018).

Virginia’s elections appear to be less competitive. Specifically, state House and Senate districts have become less contested overtime since 1997. Additionally, efforts to maintain existing majority-minority districts may lead to decreased competitiveness and increased incumbency

advantage in adjacent districts (Forgette et al., 2009). The lack of competitiveness is a concern, since voter preferences may change over time, and current incumbents may not represent current voter preferences. Studies show that voter turnout is higher when voters perceive that an election is competitive (Levitt, 2018). Virginia voters may be dissuaded from voting since few districts are deemed competitive.

Many interest groups<sup>1</sup> generally support redistricting efforts in Virginia. Brian Cannon, Executive Director of OneVirginia2021, expressed support for SB 106 as a step forward in redistricting reform. Of the supporters for redistricting reform, many were committed to the intent to address compactness, as it is a requirement of the Virginia State Constitution (Joachim, 2018; Wilson, 2018). The state Republican Party had widespread support for the bill in the Senate and House, with all Senate members voting for the bill, and the majority of Republican members in the House.

Opponents of the legislation included several Democratic members of the legislature and the state and national Democratic Party. Senator George Barker (D - 39<sup>th</sup> District) opposed the bill due to the prioritization of political subdivisions, and emphasized the need for legal and fair determination of boundaries with a focus on the Commonwealth as whole, not individual subdivisions (lowkell, 2018). Similarly, Senator Jennifer McClellan (D – 9<sup>th</sup> District) opposed the bill because it prioritized political subdivisions and boundaries, but did not hold communities of interest sacrosanct. She also believed it was premature to move forward with legislation while federal cases regarding the use of race in drawing district boundaries are under deliberation (lowkell, 2018).

#### Racial Disparity: Minority Participation and Representation

Virginia has seen a change in its demographic makeup, with Black, non-Hispanic Asian and Hispanic populations projected to grow by 2040 and constitute more than half of the population (VPAP, 2017). Virginia is also aging fast; one in five Virginians will be over 65 years by 2030 (Sen, 2017). With changing demographics, election competitiveness will also change over time. Incumbents from well-rounded districts will need to shift from traditional partisan approaches to coalition building around shared values in order to remain competitive among an increasingly diverse electorate. The 2017 election produced some very close races, sending more women, Asian Americans and Hispanic Americans to the Virginia state legislature than in years past. However, there is room for additional progress to make the legislature more representative of the electorate. Virginia's electorate is about 50% female, 60% Caucasian with a median age of 45, and nearly 40% are college graduates, whereas state legislators skew male (>70%), older (55yo), and are predominantly Caucasian (80%+) college graduates (>80%) (Figure 1). Historically, in order to diversify legislatures and get minorities elected, majority-minority districts have been used as a primary solution.

Throughout the 1960s, 70s and 80s, districts needed to be 50% or more African American for the favored candidate to win, but now in an increasingly diverse state, 40-45% representation may be sufficient (Pildes, 2002). In 2016, 50 of the 96 minority members elected to the House came from districts with no racial majority or a white majority (Wasserman, 2018). The campaigns of minority candidates across the U.S., who are increasingly winning in districts that are not dominated by one minority group, highlight the opportunity for a diverse electorate to form interracial political coalitions to elect minority candidates (Pildes, 2002; Wasserman, 2018).

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<sup>1</sup> League of Women Voters, Rotary Clubs, Tea Party supporters, AAUW, the Virginia Municipal League, OneVirginia2021, Delta Sigma Theta Sorority, Inc. and the NAACP.

Current evidence shows that the process of redistricting has a statistically significant impact on the political participation rates of African Americans (Hayes & McKee, 2012). There are significant information costs with redistricting that impact African-American voter turnout, in part due to socioeconomic factors (Hayes & McKee, 2012). Specifically, redrawn citizens are less likely to be able to identify their incumbent and this lack of familiarity with their representative produces higher non-voting rates in congressional contests (Hayes & McKee, 2012).

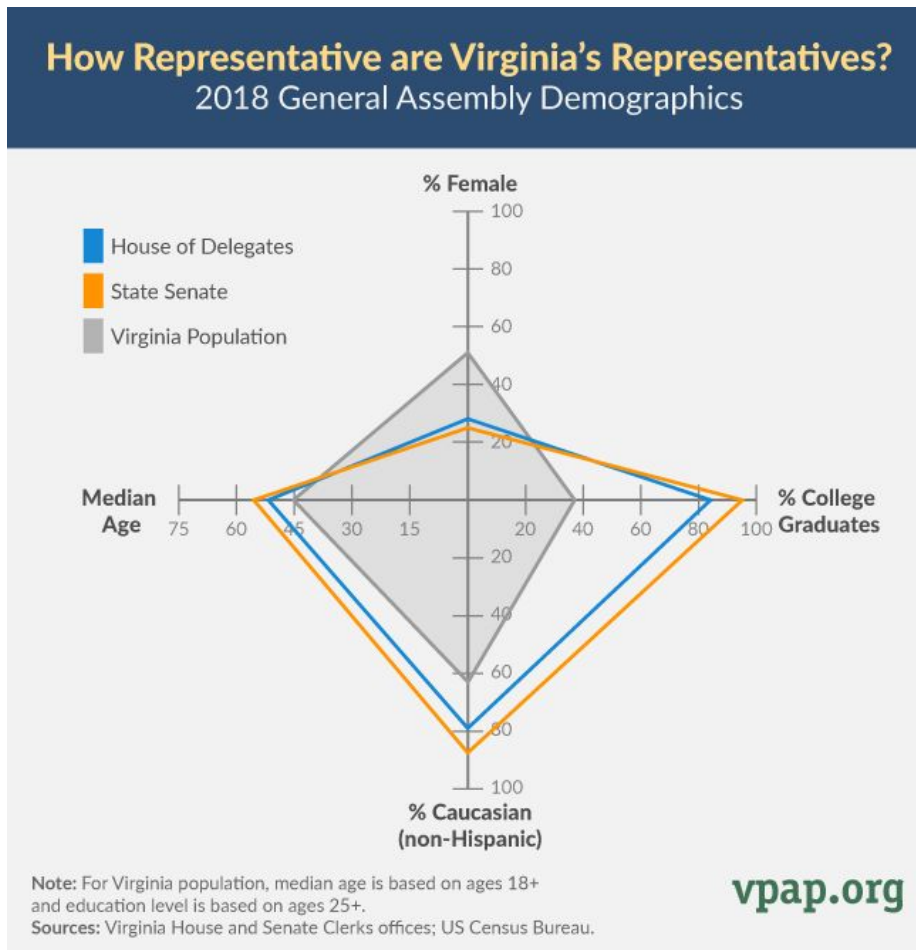


Figure 1

### RACIAL IMPACT ANALYSIS

Research has shown that an independent redistricting commission would increase competition and create better outcomes for minority voters (Carson & Crespin, 2004). According to The Virginia Public Access Project (VPAP), Virginia House and Senate districts have become less contested overtime. An efficiency gap analysis was done on all congressional and state legislative elections to determine whether a political party may have won, widened, or retained its grip on power through political gerrymandering and found that Virginia leaned more Republican after election results<sup>2</sup> (Lieb, 2017). According to the Princeton Gerrymandering

<sup>2</sup> The formula compares the statewide average share of the vote a party receives in each district with the statewide percentage of seats it wins, taking into account a common political expectation: For each 1 percentage point gain in its statewide vote share, a

Project, Republicans held a statistical consistent advantage and were favored to win more seats during the 2017 legislative district elections. Virginia's legislative districts have been statistically shown to be less competitive and in favor of one political party over the other. Redistricting in Virginia is inherently a political process that benefits incumbents (Betts, 2001). It has reduced community engagement, minority voter participation, and competitiveness. As such, studies have shown that outcomes for minorities and competitiveness are increased when redistricting happens at the court level or with independent redistricting commissions (Betts, 2001). In order to fully understand the possible outcomes in states that use redistricting commissions, this report will look at California and Arizona.

Three criteria will be used to evaluate the three states. Competitiveness will be looked at in terms of margin of victory of the last state legislative elections and term limits of legislators. A percentage point of 10% or less for margin of victory will be considered to be more competitive (McGhee, 2018). Any races considered to have a margin of victory above 10% will be considered to be not competitive. Secondly, minority voter participation will be measured by percentage of minorities who cast vote in the last legislative election for the respective states. Finally, minority voter engagement will be evaluated by minority participation in the redistricting process.

### **Arizona**

Arizona instituted an independent redistricting commission through Arizona Proposition 106, a constitutional amendment on the ballot in 2001 (Arizona Independent Redistricting Commission, 2001). The commission consists of two Republicans and two Democrats who are selected by state party leaders (Arizona Independent Redistricting Commission, 2001). There is also one independent commissioner who is selected by Democrats and Republicans on the commission. Certain criteria must be followed when drawing the maps, starting with a basic grid map, showing no previous district boundaries. The redistricting commission has faced challenges in court by the Arizona legislature, claiming that the commission did not have the authority to redraw the maps (Loyola Law School, n.d.). The Supreme Court ultimately ruled that the commission was legally able to draw the boundaries (Brennan Center for Justice, 2015). Arizona's independent redistricting commission holds rounds of public hearings on proposed legislative maps in different regions of the state (Arizona Independent Redistricting Commission, 2001). The five-member commission holds regular meetings open to the public, posting all minutes, documents, and transcripts online, thus facilitating an open, transparent process. Despite the number of public hearings and meetings held by the commission, minority voter participation in subsequent elections has remained low and has decreased over time (Daugherty & Garcia, 2018). African American participation in elections decreased by nine percent and Hispanics by 14% between 2010 to 2014.

Arizona has a high turnover rate that has risen since the passage of term limits in 1993 (Berman, 2004). Legislators serve two year terms with term limits of up to four (National Conference of State Legislatures, 2018). Term limits however have had little to no effect on minorities represented in the state legislature, with the exception of Hispanics, possibly due to changes in population (Berman, 2004). House districts elect two candidates from each district which makes it difficult to compare margin of victory. For the purposes of this analysis, only the Arizona senate elections will be used for comparison. The last legislative elections in Arizona

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party normally increases its seat share by 2 percentage points. So a party that receives 55% of the statewide vote could expect to win 60 % of the legislative seats.

occurred in 2016. Almost 50% of the Arizona state senate candidates went unopposed in the election (13/30 races). Despite having an independent redistricting commission and term limits, Arizona appears to have few competitive districts. The districts compared against the United States actually fair more competitive than other states on average (Soffen, 2015).

<b>Arizona</b>				
<b>Senate 2014</b>				
Total Seats	Available Seats	# Unopposed	Competitive (≤5%-10%)	Non-Competitive (≥10%)
30	30	5	4 Districts	26 Districts
<b>Senate 2016</b>				
Total Seats	Available Seats	# Unopposed	Competitive (≤5%-10%)	Non-Competitive (≥10%)
30	30	12	4 Districts	26 Districts
Source: Arizona Secretary of State. (2016, November 29). State of Arizona Official Canvass General Election, November 8, 2016. Retrieved October 24, 2018, from <a href="https://apps.azsos.gov/election/2016/General/Official%20Signed%20State%20Canvass.pdf">https://apps.azsos.gov/election/2016/General/Official%20Signed%20State%20Canvass.pdf</a>				

### **California**

California instituted an independent redistricting commission in 2008 (Loyola Law School, n.d.). The 14 commission seats are appointed without legislative involvement, and are divided almost evenly between registered Democrats, Republicans, and Independents (McGhee, 2018). The members are not allowed to be involved with politics and are required to have an open, transparent process. The independent redistricting commission hold 30 public meetings before the maps were drawn and 30 public meetings after the maps are drawn (Shupe, 2018). The state became a majority-minority state after the 2000 U.S. Census but has seen less participation from African Americans, Hispanics and Asian Americans (Baldassare et al., 2018). Efforts through the Irvine Foundation and other interest groups have worked to ensure that multiple voices, including those of minorities, were included in the commission's redistricting process (James Irvine Foundation, 2010).

California state senators serve four-year terms with a two-term limit, and California assembly members serve for two years with a three-term limit (National Conference of State Legislatures, 2018). Since term limits were passed in 1990, the legislature has seen more representation by minorities (Cain, & Kousser, 2004). In 2014 only four races in the assembly went uncontested (California Secretary of State Debra Bowen, 2014). In 2016, the competitiveness of the assembly districts decreased, with 14 races having a 16% or less margin of victory. The number of competitive senate races increased to 20% with five districts with a 16% or less margin of victory (California Research Bureau, 2016).

Despite California becoming a majority-minority state, there is still a disparity in minority voter participation in state legislative elections. Non-Hispanic whites make up 42% of the state's adult population, but constitute about 59% of the state's likely voters (Baldassare et al., 2018). According to the Public Policy Institute of California, 50% of Asian American adult citizens, 53%



of Hispanic adult citizens, and 58% of African American adult citizens are likely to vote, compared to 75% of white adult citizens. Minority voter participation is down, similar to Arizona, however California appears to have more contested elections and more competitive elections.

<b>California</b>				
<b>Senate 2014</b>				
Total Seats	Available Seats	# Unopposed	Competitive (≤5%-10%)	Non-Competitive (≥10%)
40	20	0	5 Districts	15 Districts
<b>Senate 2016</b>				
Total Seats	Available Seats	# Unopposed	Competitive (≤5%-10%)	Non-Competitive (≥10%)
40	20	0	5 Districts	15 Districts
<b>House 2014</b>				
Total Seats	Available Seats	# Unopposed	Competitive (≤5%-10%)	Non-Competitive (≥10%)
80	80	4	14	66
<b>House 2016</b>				
Total Seats	Available Seats	# Unopposed	Competitive (≤5%-10%)	Non-Competitive (≥10%)
80	80	2	12	68
Source: California Secretary of State Alex Padilla. (2016). Statement of Vote November 8, 2016, General Election. Retrieved October 24, 2018, from <a href="https://elections.cdn.sos.ca.gov/sov/2016-general/sov/2016-complete-sov.pdf">https://elections.cdn.sos.ca.gov/sov/2016-general/sov/2016-complete-sov.pdf</a>				

### **Virginia**

Virginia has open public committee meetings for passage of redistricting bills and maps during the General Assembly session. Six public hearings were held around the state in 2010, prior to the 2011 General Assembly session, conducted by the house committee on privileges and elections (Cole, 2010). Then Governor, Bob McDonnell created an Independent Advisory Commission which held four public meetings across the Commonwealth, to gather input on the redistricting process (Independent Bipartisan Advisory Commission on Redistricting Commonwealth of Virginia. (2011). The commission found that transparency and the splitting of precincts for legislative districts were of concern from members of the public.

Members of the Virginia Senate serve four years with no term limits and members of the House of Delegates serve for two years with no term limits (Va. Const, art. IV §§ 2 & 3). In the 2015 Senate and House of Delegates elections, 79 seats went uncontested, all of whom were

incumbents. This presents a challenge in those districts for competitiveness since there are no term limits and fewer candidates entering the race. Redistricting takes place in the Virginia General Assembly redistricting committee in each house. The house of delegates committee consists of four Republicans and two Democrats, and the senate committee consists of three Republicans and five Democrats (VA General Assembly, 2011). HB 5005 was the last redistricting bill passed in 2011, which set forth the current legislative boundaries. In 2017, the number of uncontested seats in the House went down from 62 to 33 seats (Virginia Department of Elections, 2018). The number of seats increased in competitiveness and less seats went uncontested, bringing Virginia in line with Arizona and California in having about 20% or more seats competitive.

<b>Virginia</b>				
<b>Senate 2015</b>				
Total Seats	Available Seats	# Unopposed	Competitive (≤5%-10%)	Non-Competitive (≥10%)
40	40	17	6 Districts	34 Districts
<b>Senate 2017</b>				
Total Seats	Available Seats	# Unopposed	Competitive (≤5%-10%)	Non-Competitive (≥10%)
40	2	0	1 Districts	1 Districts
<b>House 2015</b>				
Total Seats	Available Seats	# Unopposed	Competitive (≤5%-10%)	Non-Competitive (≥10%)
100	100	62	3	97
<b>House 2017</b>				
Total Seats	Available Seats	# Unopposed	Competitive (≤5%-10%)	Non-Competitive (≥10%)
100	100	33	22	78
Source: Virginia Department of Elections. (2018). Virginia Elections Database » Search Elections. Retrieved October 29, 2018, from <a href="http://historical.elections.virginia.gov/elections/search/year_from:2017/year_to:2017/office_id:9/stage:General">http://historical.elections.virginia.gov/elections/search/year_from:2017/year_to:2017/office_id:9/stage:General</a> .				

Minority voter participation in Virginia is consistent with Arizona and California; it is significantly lower than non-Hispanic white voters (Krogstad & Lopez, 2017). According to the U.S. Census, African American voter participation rates decreased from 62% to 55.9% from 2012 to 2016, but Hispanic voter participation remained stagnant at about 31% (U.S. Census, 2018). These statistics are troubling considering about 36% of the total Virginia population belongs to a racial or ethnic minority and the state is projected to be a majority-minority state by 2040 (VPAP,

2017). Considering the turnout rate of minorities, especially African Americans is lower than the population total in the state, it is concerning that the Virginia General Assembly may not necessarily reflect the preferences of minority groups in Virginia. *Figure 1* shows the current makeup of the General Assembly in relation to population trends of the state.

## **RECOMMENDATIONS**

During the 2018 General Assembly session, over 20 bills related to redistricting were introduced, highlighting the importance of the issue and the legislature's willingness to consider strategies for improving the process. However, there are differing approaches to redistricting, specific to the criteria used for redistricting and the persons involved in the final decisions. Therefore, in order to best use redistricting to maximize the voting power of communities of color, we have three key recommendations.

### **Recommendation 1: Optimize community voices through community engagement**

Best practices identified from community driven redistricting, such as the one in Oakland, California, include an open, transparent process with community meetings targeting young people, immigrants, people of color and other traditionally marginalized groups (Oakland Votes Redistricting Commission, 2014). Virginia should intentionally employ an open, transparent process of community engagement that equips the community with the tools to create maps that allow them to self-define their communities. In order to mobilize communities of color to participate in redistricting events, engagement strategies akin to those used for voter registration and get out the vote initiatives (door knocking, calling community members, emailing) and engagement key community brokers should all be employed. These efforts to engage the community in the redistricting process will allow for the process to (1) become more transparent; (2) provide more opportunities for communities of interest to express the needs and desires of their respective communities; and (3) foster a greater sense of inclusion in the process.

### **Recommendation 2: Establishing a Non-Partisan Solution to Redistricting**

Across the nation, seven states use independent commissions to draw congressional districts and 13 use independent commissions to establish state legislative district boundaries. The General Assembly is showing signs of creating a possible redistricting commission independent from the legislative body under SJ 25, a resolution introduced in 2018 and is anticipated to be re-introduced in 2019. This resolution seeks to create a seven-member bipartisan appointed commission. Poll results suggest there is public support for putting the redistricting process into the hands of an independent redistricting commission. A recent poll conducted by the Judy Ford Wason Center for Public Policy at Christopher Newport University found that over 60% of Virginians would support a state constitutional amendment to institute a nonpartisan redistricting commission (Joachim, 2018). Given this public support for an independent redistricting commission, the General Assembly should consider moving forward with SJ 25. Multiple stakeholder groups have expressed support for the creation of an independent commission built on non-partisan criteria that would use Census data and community input to develop state legislative and congressional maps (Albiges, 2018).

### **Recommendation 3: Unpack majority minority districts**

Unpacking majority-minority districts provides greater opportunity for minorities to build diverse coalitions with like-minded voters. In the short-term, this process can begin with the development of remedy maps that resolve the racial gerrymander deemed present in 11 House

of Delegate districts. Addressing racial gerrymandering is anticipated to (1) influence districts where the voting age population of minorities will increase such that incumbents must intentionally engage with this community in order to be reelected; and (2) challenge districts where the voting age population of minorities will substantially increase, creating opportunity for a minority primary challenger. In the long-term, redistricting efforts beginning 2021, using 2020 Census data, should not establish a specific minority voting age population threshold for the creation of district boundaries (i.e. >55% African American voting age population). Instead, respect for geographic boundaries (such as counties and voting precincts) and communities of interest, that specifically indicate racial and ethnic minorities, should be considered. It would be reasonable to consider the creation of smaller precincts in order to give voters more options and to optimize voting numbers.

## **CONCLUSION**

Since the founding of the country, the voting power of communities of color has been in contention. While the Supreme Court has confirmed that voting is a fundamental political right and all voters are equal, there remain barriers to voting that disproportionately impact African Americans, Hispanics, young voters, low wage earners, and people with disabilities (Lieberman, 2012). Voting barriers include restrictions to voter registration, absentee and early voting, voter identification, voter purging, and rights restoration. Virginia currently requires photo identification at the polls and multiple bills were forwarded in the 2018 General Assembly session either to revoke or to increase the stringency of photo identification requirements. Virginia is making progress in regards to rights restoration for formerly incarcerated persons, however, redistricting remains a prime opportunity to further optimize the voting power of Virginia's minority communities. SB 106 proposed criteria to guide the redistricting process in anticipation of the 2020 Census. Nationally, we have seen other states take on the challenge of a fair, open and transparent redistricting process, by centering not just the criteria for drawing the district lines but the persons in charge of process. In particular, states that implement redistricting well, engage communities that have historically been marginalized. Virginia is poised to follow suit. During the 2018 General Assembly session, legislators forwarded several pieces of legislation, such as SJ 25, seeking to establish an independent, bipartisan redistricting commission.

While an independent redistricting commission is an approach proven to enhance competition and create better outcomes for minority voters, this inherently political process requires community engagement in order to truly reflect community priorities (Carson & Crespin, 2004). Intentional outreach to communities of color and equipping them with the skills to draw maps will optimize their voting power. Instead of being locked out of critical conversations, communities of color will direct the conversations and have a greater chance of electing candidates of their choosing. Furthermore, by unpacking majority-minority districts and collaborating with politically like-minded voters across multi-racial coalitions, communities of color will not suffer dilution of their voting power.

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## Redistricting: A Case for Nonpartisan Action



## Presented by Arrested Development



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## Project Outline

- Key Terms
- Overview
- Understanding the Players
- Racial Disparity
- Racial Impact Analysis
- Recommendations
- Conclusion

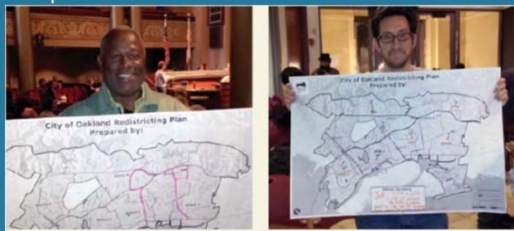
## Key Terms

- Redistricting
- Compactness
- Gerrymandering
- Cracking
- Packing
- Communities of Interest
- Contiguity



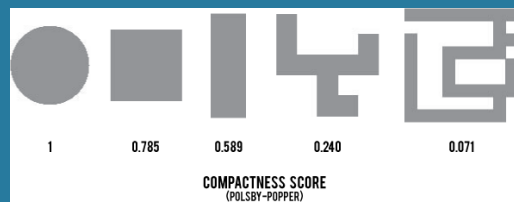
## Define: Redistricting

The process of drawing electoral district boundaries in the United States. Because districts may change demographically and populations too, district boundaries are redrawn every 10 years. This should ensure that the districts are reflective and representative of the electorate.



## Define: Compactness

Generally understood to mean how regular in shape a district is and how close a district's boundaries are to its geographic center.



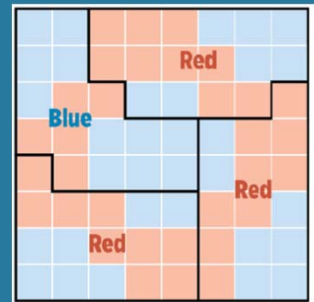
## Define: Gerrymandering

- The manipulation of district lines to protect or change political power.
- Maps drawn in a way that disadvantages racial or ethnic minorities
- One political party using unilateral ability to pass a map to lock in a disproportionate share of seats



## Define: Cracking

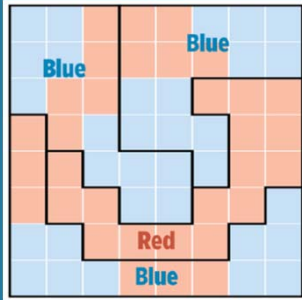
- "Cracking" - Diluting the voting power of a group across many districts
- Historically this technique was used to spread members of minority communities across districts and prevent election of candidates of color
- Voting Rights Act of 1965 allowed for creation of majority minority districts to remedy this practice



Source: Azavea

## Define: Packing

- "Packing" - Concentrating the members of a group in one district, which reduces their voting power in other districts
- Fine line between concentrated districts (majority minority) to ensure minority representation and super concentrated or packed districts that dilute the minority community's voting power in surrounding districts



Source: Azavea

## Define: Communities of Interest

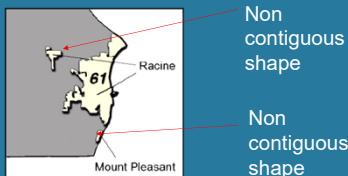
These are groups of individuals who are likely to have similar legislative concerns, and who might therefore benefit from cohesive representation in the legislature.

- 24 states consider various communities in defining district boundaries, criteria include
  - Racial, ethnic, social, cultural, Indian reservations, historic interests
  - Geographical, regional, county, municipal or voting precinct boundaries
  - Partisan, voting trends, incumbency



## Define: Contiguity

Single, unbroken shape. Like compactness, contiguity is considered one of the "traditional" redistricting principles.



## Overview: The Voting Rights Act of 1965



- Outlawed the discriminatory voting practices adopted in many southern states after the Civil War, including literacy tests as a prerequisite to voting
- The Voting Rights Act is broad, which has allowed states to interpret differently and affect competitiveness in legislative districts

## Overview: Preclearance

- Section 5 of the Voting Rights Act
- Prior to 2013, Virginia redistricting plans were subject to review by the Department of Justice
- The Supreme Court Case *Shelby County v. Holder*, 570 U.S. 2 (2013), invalidated the preclearance requirement until after a redistricting bill becomes a law
- Litigation is currently the only way to challenge proposed redistricting bills



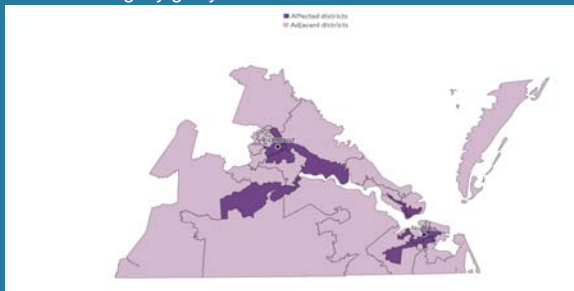
## Overview: Voter Suppression

- In the absence of strong enforcement of the Voting Rights Act, multipronged strategies aimed at voter suppression have been attempted, most centering on voter identification and voter registration
- Examples
  - Senate Bill 523- Photo ID in poll books
  - House Bill 1598- Require Proof of Citizenship
  - House Bill 1428- Require Photo ID for phone/email/mail Absentee Voting



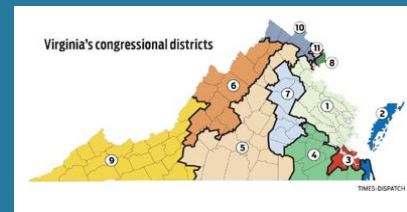
## Overview: Gerrymandering

- *Bethune-Hill v. VA State Board of Elections* (2018) found that 11 of 100 House districts created in 2011 were illegally gerrymandered based on race



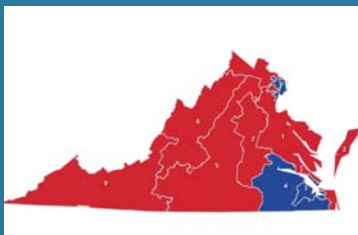
## Overview: Virginia Current State

- Current Virginia map shows a state that favors one party over the other
- Appears to pack minority voters into certain districts (Appeals court in *Bethune-Hill* case determined this was **ILLEGAL**)



## Overview: Virginia Current State

- Virginia has 11 congressional districts. Seven are Republican-held, with Democratic incumbents in the remaining four. Three Republican-held seats are highly competitive; one of those, the 10th district, actually leans toward the Democratic nominee.



## Overview: Senate Bill 106 (SB 106)

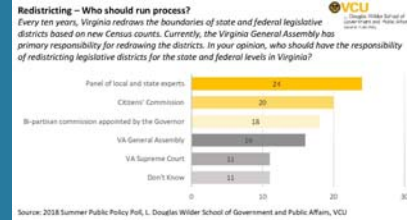
- Proposed by Senator Suetterlein during the 2018 General Assembly Session
- Focused on setting forth new criteria for congressional and legislative districts
- Ensuring redrawing did not dilute communities of interest
- Virginia has historically used redistricting to dilute minority voting power through cracking and packing
- Vetoed by Governor 5/18/18



### Independent Redistricting Commissions

- 5 states use independent commissions as advisory to the state legislature
- 13 states use independent commissions solely for legislative & congressional boundaries
- SJ 25- possible independent commission (7 member)
  - Introduced during 2018 session in Virginia
  - Will be reintroduced in 2019
- Survey results indicate voters prefer non-partisan efforts for redistricting
- Ensure balanced representation of political affiliation

### Polling Shows Public Support of IRC



### Racial Impact Analysis

- Determine whether having an Independent Redistricting Commission increases
  - Minority voter participation
  - Community engagement with minorities
  - Competitiveness
- States used for analysis:
  - Arizona-Republican Leaning
  - California-Democratic Leaning
  - Both have a high population of minorities and Independent redistricting commissions

### State Analysis: Arizona

- Independent Redistricting Commission established in 2001
  - 5 seats (2 Republican, 2 Democrat, 1 Independent Chair)
- Legislature has term limits
  - Despite this, has less minority representatives in office
- 30 Senate seats, 60 House seats
- Low Minority voter participation
- Commission held 21 public meetings before maps were drawn



### Margin of Victory: A Measure of Competitiveness in Arizona 2014

Arizona					
Senate					
Total Seats	Available Seats	# of unopposed	% of unopposed	Competitiveness	
30	30	5	16%	Competitive (5%-10%)	Non-Competitive ≥10%
				4 districts	26 districts
House					
Total Seats	Available Seats	# of unopposed	% of unopposed	Competitiveness	
60	60	4	6.60%	Competitive (5%-10%)	Non-Competitive ≥20%
				N/A	N/A

### Margin of Victory: A Measure of Competitiveness in Arizona 2016

Arizona					
Senate					
Total Seats	Available Seats	# of unopposed	% of unopposed	Competitiveness	
30	30	12	40%	Competitive (5%-10%)	Non-Competitive ≥10%
				4	26
House					
Total Seats	Available Seats	# of unopposed	% of unopposed	Competitiveness	
60	60	6	10	Competitive (5%-10%)	Non-Competitive ≥20%

## State Analysis: California



- Independent Redistricting Commission (2008)
  - 14 seats almost even amongst Democrats, Republicans & Independents
  - Legislature not allowed to appoint representatives
- Term Limits
  - More minority representation overtime since IRC was enacted
- 40 Senate seats, 80 House seats
- Disparity in minority voter participation despite being majority minority state
- Commission held 30 public meetings before maps were drawn and 30 meetings after maps were drawn

## Margin of Victory: A Measure of Competitiveness in California 2014

California					
Senate					
Total Seats	Available Seats	# of unopposed	% of unopposed	Competitiveness	
40	20	0	0	Competitive (5%-10%)	Non-Competitive ≥10%
				5	15
House					
Total Seats	Available Seats	# of unopposed	% of unopposed	Competitiveness	
80	80	4	5%	Competitive (5%-10%)	Non-Competitive ≥20%
				14	66

## Margin of Victory: A Measure of Competitiveness in California 2016

California					
Senate					
Total Seats	Available Seats	# of unopposed	% of unopposed	Competitiveness	
40	20	0	0	Competitive (5%-10%)	Non-Competitive ≥10%
				5	15
House					
Total Seats	Available Seats	# of unopposed	% of unopposed	Competitiveness	
80	80	2	2.50%	Competitive (5%-10%)	Non-Competitive ≥20%
				12	68

## State Analysis: Virginia

- Redistricting conducted by Virginia General Assembly
- No term limits (Senate & House)
- 40 Senate Seats, 100 House of Delegates Seats
- Minority voter participation consistent with AZ & CA
- VA projected to be majority minority by 2040
- House Subcommittee on Privileges and Elections held six meetings before maps were drawn

## Margin of Victory: A Measure of Competitiveness in Virginia 2015

Virginia					
Senate					
Total Seats	Available Seats	# of unopposed	% of unopposed	Competitiveness	
40	40	17	42.50%	Competitive (5%-10%)	Non-Competitive ≥10%
				6	34
House					
Total Seats	Available Seats	# of unopposed	% of unopposed	Competitiveness	
100	100	62	62%	Competitive (5%-10%)	Non-Competitive ≥20%
				3	97

## Margin of Victory: A Measure of Competitiveness in Virginia 2017

Virginia					
Senate					
Total Seats	Available Seats	# of unopposed	% of unopposed	Competitiveness	
40	2	0	0	Competitive (5%-10%)	Non-Competitive ≥10%
				1	1
House					
Total Seats	Available Seats	# of unopposed	% of unopposed	Competitiveness	
100	100	33	33%	Competitive (5%-10%)	Non-Competitive ≥20%
				22	78

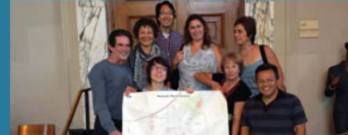
## Concluding Thoughts

- All three states have a low minority voter participation despite greater engagement in redistricting process such as California
- California and Arizona's legislative elections appear to be more competitive than Virginia
- Community engagement is better in California than Arizona and Virginia



## Recommendation #1: Optimize Community Voice through Community Engagement

- Minority voter participation is down
- Current redistricting process only includes 6 public hearings before maps are drawn, no public hearings held after maps are drawn
- To increase voter participation, must have greater community outreach with minority groups
- This creates opportunities for minorities to develop their own maps, self-define their communities and incorporate their voice into the process



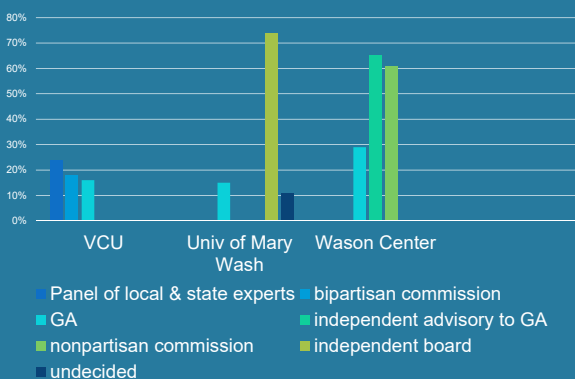
## Comparing Public Information and Community Engagement Strategies

	CITY PROCESS	OAKLAND VOTES REDISTRICTING COALITION
NUMBER OF MEETINGS	7 (during the week of July 4, week of Labor Day)	3 (1 Citywide, 2 for Maxwell Park)
PARTICIPANTS AND PROFILE	120 mostly older, mostly white, with much duplication	105, including many young people, immigrants, people of color
MAPS DRAWN	13	36
LEADERSHIP DEVELOPED	"We involve the community as much or as little as the City wants us to." -Douglas Johnson, National Demographics, Rules Committee 4/18/13	> Stories about "Why I Love Oakland" > Resident opened home for meeting > 15 residents from low-income communities of color attended and spoke at City hearings
DOORS KNOCKED AND PHONES DIALED		> ACCE 708 doors & 201 Count-on-Me cards > Oakland Rising 7,592 contacts-84% support Citizens/Resident Commission
EMAIL BLASTS		ACCE 5,800 emails, plus 150 in Maxwell Park list-serv

## Recommendation #2: Independent Redistricting Commission

- Virginia's current redistricting process and no term limits creates less competitive districts
- Arizona and California show more competitive districts
- In California, there has been an increase in minorities and women representatives
- The General Assembly should create an independent redistricting commission to increase competitiveness in races and produce better outcomes for minorities
- Public support is high for an IRC

Poll Results



## Recommendation #3: Unpack Majority Minority Districts

- Studies show majority minority districts are in effect keeping more minority representatives from being elected to office
- In other states, we're finding that minority representatives can be elected without a majority minority district
- Unpacking majority minority districts increases competition, voter turnout and may potentially increase number of minority representatives in General Assembly



## Conclusion

- Independent Redistricting Commission approach enhances competition and greater representation by minorities as evidenced in California
- Unpacking majority-minority districts provides greater opportunity for minorities to work together in coalitions with like-minded white voters to elect a candidate of their choice
- Open, transparent process with community meetings targeting young people, immigrants, people of color and other traditionally marginalized groups will optimize minority participation in redistricting process

## QUESTIONS?

