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Senator R. Creigh Deeds

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EDITORIAL

BIPARTISAN REDISTRICTING

*Senator R. Creigh Deeds*

The redistricting of legislative lines, whether for the houses of the General Assembly or Virginia's congressional delegation, is currently riddled with partisan politics.\(^1\) It appears, however, that different political parties will control the two houses of the legislature during the next redistricting process for the first time in our Commonwealth's history.\(^2\) Whether this is to be the case for the redistricting of 2011 will be decided by future events, but currently Democrats control the State Senate and Republicans have a majority of the House of the Delegates.\(^3\) The next Governor will also play a significant role in redistricting.\(^4\) With no one party in control, now more than ever, both parties can benefit from a move to a bipartisan or nonpartisan redistricting process. More importantly, though, the process must change for the sake of our democracy and the people.\(^5\)

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\(^1\) Member, Virginia Senate since 2001, 25th District, Albemarle County (part), Alleghany County, Bath County, Buckingham County (Part), Nelson County, Rockbridge County (part), Buena Vista, Charlottesville, and Covington. B.A., 1980, Concord College, J.D., 1984, Wake Forest University School of Law. Prior to becoming a member of the Senate, Senator Deeds was a member of the Virginia House of Delegates from 1992 to 2001. He is currently the Democratic nominee for the 2009 Virginia gubernatorial election.


\(^5\) See Editorial, *supra* note 1 (noting that redistricting is emerging as an issue in the gubernatorial race); cf. VA. GEN. ASSEMBLY, HOW BILLS BECOME LAWS, http://legis.state.va.us/1_citguide/how_bills.html (explaining that the Governor must approve bills before they become official Acts of Assembly).

\(^6\) VA. REDISTRICTING COAL., VIRGINIA NEEDS REDISTRICTING REFORM, http://www.fixthelines.org (last visited Apr. 2, 2009) (noting the need for a bipartisan solution that will provide fairness in redistricting).
In today's computer-driven world, it is possible to observe the numbers and partisan makeup of each election district with unmatched detail. Before beginning the redistricting process, both parties are able to know the political preferences of every precinct or ward and even have significant data on the individual household politics in any given jurisdiction. Districts can be—and historically are—drawn to benefit the incumbent majority party, the incumbent legislator, or the favored candidate of the incumbent party. In so doing, democracy is thwarted. As it stands, however, courts have repeatedly held that redistricting to favor one political party over another is perfectly legal.

The result of such a system is that the party machinery of both Democrats and Republicans control the democracy, not the voters. Incumbents, once elected, are beholden to the party apparatus that nominated them, not to the people who elected them. Districts are drawn in such a way that the legislature is made up of extremely partisan politicians, driven by ideological bend rather than focused on solving problems and producing results. Legislators can do better.

The issues surrounding the redistricting process are not new to the Virginia legislature. In 2001, the redistricting process, under Republican control, separated Democratic lawmakers from their constituents; an identical separation no doubt occurred to Republican incumbents under the control of Democrats. As the saying commonly

7. Cf. id.
9. See id.
12. See VA. CONSERVATION NETWORK, supra note 11.
13. See id.
16. See Tyler Whitley, Party Labeling Seen as Boost for GOP: Ballot Change Takes Effect on
goes, however, two wrongs do not make a right. Simply put, partisan redistricting does not serve democracy well, regardless of the party in control of the process.

Various legislation proposals introduced in the General Assembly have borrowed features from both New Jersey and Iowa in an effort to put together a plan that will work for Virginia. The legislation focused on creating a bipartisan commission to oversee the redistricting process. Under one legislative proposal, the commission would operate in an extra-legislative process, while in an alternate version, the commission would offer recommendations to the legislature. An amendment to the Virginia Constitution would establish the former, and the commission’s plan would not be subject to the approval of the legislature. A change to the Virginia Code would establish the latter, and the commission’s recommendation would be subject to amendment by and approval of the General Assembly. Both proposed commissions would be bound by criteria similar to those used in the Iowa model. These criteria are simple: it prohibits the consideration of incumbency protection, the address of any incumbent or candidate, or political considerations of any kind. In fact, the only demographic allowed to be considered in redistricting is population. Virginia is a Voting Rights Act state, so the required consideration of other factors will certainly make the Virginia

24. Id. (The Iowa redistricting process “specifically forbids the use of political affiliation, previous election results, the addresses of incumbents, or any demographic information other than population in creating the redistricting proposals.”).
25. Id. (noting the four criteria considered by the Iowa legislature during the redistricting process: 1) population equality, 2) contiguity, 3) unity of counties and cities, and 4) compactness).
model work differently, but Virginia's long-term political health will be much improved if the legislature reforms the way district lines are drawn.

In the 2009 regular session of the General Assembly, legislation to create a commission that would make recommendations to the legislature passed the Senate unanimously but was defeated in a House of Delegates' subcommittee along party lines in a four-to-two vote. The Senate's passage of the bill showed that this is not a partisan issue; redistricting reform is about what is best for Virginia.

The calculus of government can change with this legislation. Reform can produce a legislature focused on solving Virginia's problems, allowing for further progress. Such a legislature would not be hamstrung on issues critical to the future of Virginia, such as reforming the vastly underfunded and underperforming state transportation system—an issue that has divided the General Assembly for several gubernatorial administrations. Redistricting reform will produce a more moderate General Assembly that reflects the people of Virginia more accurately. The legislature can reform the process and, in doing so, can preserve the best of self-government in the Commonwealth of Virginia.

28. See id.