



**Virginia Federation of Chapters (VFC)  
2015 State Legislative Plan  
“Talking Points”**

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**National Active & Retired Federal Employees Association (NARFE)**



## **Enhanced Protection of Incapacitated Adults**

### **I. Intent/Goal**

Our proposal would 1) expand the definition of “incapacitated adult” from **mentally-incapacitated adults** to adults whose incapacity might be a **physical disability** or **situational** due to **social isolation**; 2) provide for victim asset recovery through the seizure and forfeiture of property used in connection with such exploitation; and 3) provide for more severe criminal penalties for violators (situation-dependent).

### **II. Summary of the Problem**

Financial abuse/exploitation of vulnerable persons (especially senior citizens) is becoming more widespread as Americans increasingly live alone. Current legislation applies only to situations involving the exploitation of a **mentally**-incapacitated adult. As such, this legislation does not address what might well be the more common situation, whereby someone in full command of his/her mental faculties is nevertheless vulnerable to exploitation/intimidation by dint of a physical disability and/or social isolation. This latter situation might well confront many NARFE members, either now or in the near future.

### **III. Political or Legal Arguments against the Issue & Suggested Counterarguments**

According to the consultant & expert on elderly exploitation, Mr. William Lightfoot, who addressed our State Legislative Committee in Richmond on 6/11/13, a significant sticking point in the debate over new legislation, such as our proposal, is inclusion of the notion of “undue influence.” The concern that surfaced in the Virginia House of Delegates was that this term is not found in criminal law (and therefore, plays into the fears of overly-broad prosecutorial discretion). Yet, as Mr. Lightfoot pointed out, this term does in fact figure in Virginia civil law. An example would be in the context of “Wills, Trusts, and Estates” - the idea being that a will or trust signed by someone under duress or undue influence of another is not valid. The fact that courts have been able to discern undue influence in this context suggests that they would be able to do so in the realm of financial exploitation as well.

(Excerpted/abridged from the 2013 issue paper by Edward Weiler, Legislative Chair, Arlington Chapter 7, Area X, cantilever55@yahoo.com)



# **Income Tax Subtraction for Retiree Health Insurance Premiums**

## **I. Intent/Goal**

Our proposal would permit Virginia retirees (both federal and non-federal) to subtract their health insurance premiums from pre-tax income, the same privilege as is afforded to all currently working citizens of Virginia.

## **II. Summary of the Problem**

Currently, for any employee with a company or agency health plan, the amount paid by the employee for health insurance is considered pre-tax income and is deducted from the individual's W-2 income calculation. Retirees (Federal and non-Federal) are not treated the same; they must pay taxes on their entire annuity, including payments for health insurance.

In 2013, HB 2167 was signed into law. It provides that individuals over 65 may deduct premiums paid for medical insurance. To qualify, the person must make at least \$20,000 (earned income) but not more than \$30,000 (federal adjusted gross income). However, most retirees will not fit into this narrow window either because they do not work, and therefore do not have earned income, or because they earn more than \$30,000 (counting work and annuities).

## **III. Political or Legal Arguments against the Issue & Suggested Counterarguments**

With approximately one-eighth of the Virginia population retired (the latest Census reports show that 12.5 percent of the current population is 65 or older), allowing this subtraction from income tax would significantly impact Virginia tax revenues.

A counter argument to the tax revenue concern relates to the heavy burden the current tax law places on senior citizens. According to the 2010 Consumer Expenditure Survey, the largest expense for seniors (after housing) is medical care. These costs are rising, and the Affordable Care Act will not prevent them from continuing to rise. Seniors, both federal and non-federal, most of whom are on fixed incomes, will increasingly need to offset those costs; allowing retirees to subtract their premiums is a small measure toward that offset. Stated differently, current tax law allows everyone to subtract health premium expenses except the group that pays the most for it and that is most affected by it.

Virginia income tax forms are based on the Federal form, but provide additions and subtractions to compensate for Virginia law. The current marginal tax rate (i.e., the highest rate) is 5.75 percent. Assuming health insurance premium payments of \$400/month for a retired couple, the annual savings of this proposal would be \$276 for a married couple; about two-thirds of that for a single person. [ $\$400/\text{mo} \times 12 = \$4800/\text{yr} \times 5.75\% \text{ tax rate} = \$276$ ] The argument in favor of this legislation is "equality." Current law is biased against one economic group – retirees.

(Excerpted/abridged from the 2013 issue paper by James Blubaugh, Legislative Chair/Page Valley Chapter 1793, Area VII, [jim@jimblubaugh.com](mailto:jim@jimblubaugh.com))



# Nonpartisan Redistricting Reform

## I. Intent/Goal

Our proposal would amend the Virginia Constitution, such that the function of redistricting for Congressional and General Assembly seats following the Federal decennial census is performed on a strict nonpartisan basis, such as by a nonpartisan commission.

## II. Summary of the Problem

Currently, *Article II, Section 6* of the Virginia Constitution mandates the General Assembly to effect the decennial redistricting for electoral districts, with little guidance beyond a general statement that every electoral district, "...shall be composed of contiguous and compact territory and shall be constituted as to give, as nearly as is practicable, representation in proportion to the population of the district." As is widely recognized, however, when left to their own devices, both bodies of the General Assembly create districts that are often only tangentially "contiguous," and violate any commonsense notion of territorial compactness. In short, our legislators are able to use the current process for partisan and/or incumbent advantage. The ensuing result has been, and continues to be, political gridlock, since this "safe-seat" process removes the need for legislative compromise.

Numerous bills calling for a bipartisan redistricting commission have been introduced in both the House and the Senate over the past several years. None of these bills has passed committee in the House, although companion bills (*SJ 321*) and *SJ 303*) passed the Senate handily in the 2011 and 2013 Sessions, respectively. For its part, NARFE/VFC included a "redistricting" plank in its 2010 State Legislative Plan. In that year's Session, a House bill sponsored by then-Del William Barlow (a reintroduction of similar bills submitted in 2008 and 2009) failed in the House Privileges and Elections Committee. In the 2014 Session, Sen. Deeds (D-25) made yet another run at a redistricting-commission bill (*SJ 37*), with only limited success—it was continued to the 2015 Session in Privileges and Elections by a 14-0 vote. As such, this continuation might augur a victory in 2015, in that Deeds's *SJ 70* from the 2012 Session was continued to the following year (*SJ 303*), wherein it passed the full Senate by a 34-6 vote. Unfortunately, the 2014 companion House bill (*HJ 66*) introduced by Del. Plum (D-36) failed in the House Privileges and Elections Committee.

## III. Political or Legal Arguments against the Issue & Suggested Counterarguments

Some political observers believe that this type of change will *never* happen. Granted, this type of legislation has failed repeatedly in Virginia's House of Delegates. But it is also the case that at least 20 states have established redistricting commissions over the past decade. There are a number of possible options for rendering Virginia's redistricting process more rational and nonpartisan. While it is not our intent to be too prescriptive in proposing this legislation, we can draw upon one prominent example that's widely viewed as a relative success story -- the "Iowa Model." In Iowa, a non-partisan, independent agency has drawn electoral districts solely on the basis of population considerations since 1980. Iowa's system has resulted in some of the nation's most competitive political races. Perhaps the best way to sell this issue to reluctant legislators is to make the "business" case for it...*i.e.* that growing, innovative companies prefer to locate in states where government is focused on developing the local economy, rather than on perpetuating "safe seats" for incumbent politicians.



## Senior Absentee Voting

### I. Intent/Goal

Our proposal would allow seniors (65 years and older) to vote by absentee ballot without having to formally designate a specific excuse (from a list of currently allowed excuses) on their absentee ballot requests. Also called "no-excuse" absentee voting.

### II. Summary of the Problem

In the wake of long lines at many of Virginia's polling sites during the November 2012 elections, several legislative initiatives were introduced to enhance access to the polls, to include easing waiting lines. According to Virginia voter registrars, one of the main contributing factors to the long lines was curbside voting – taking a voting machine out to the curb so an elderly voter can cast a ballot from his/her vehicle. Adding to the problem is the fact that many seniors do not meet the official definition for a “disability” excuse to qualify for absentee voting under current Virginia law.

In early 2013, this proposed legislation received initial bipartisan sponsorship in both the Virginia Senate and the House of Delegates. The legislation was submitted as a compromise to earlier legislative proposals for early voting and broader no-excuse absentee voting. The legislation was supported by the Virginia State Board of Elections, Voter Registrars' Association of Virginia, the League of Women Voters of Virginia, and the AARP, among others. While in 2013, and again in 2014, this proposed legislation passed the Virginia Senate, it was tabled by House of Delegates' subcommittee after almost no debate.

### III. Political or Legal Arguments against the Issue & Suggested Counterarguments

The main political argument against no-excuse absentee voting for seniors (or other Virginians) appears to be that it may facilitate voter fraud.

Some legislators often cite voter fraud as a reasonable justification for tightening voter requirement laws in general. However, even highly conservative think tanks like the Heritage Foundation admit that voter fraud claims across the US are greatly exaggerated (CNN interview with Heritage's Hans von Spakovsky, 11/5/11). Only a tiny portion of claims have been substantiated, according to the non-partisan, public policy and law institute, the Brennan Center for Justice ([www.brennancenter.org](http://www.brennancenter.org)). Based on its recent comprehensive study, the Brennan Center notes that voter fraud “is more rare than death by lightning.” Senator John Miller (D-Newport News) told the *Richmond Times Dispatch* (1/17/13) that cases of voter fraud in Virginia due to no-excuse senior absentee voting would be unlikely: “I have a hard time imagining that our parents or grandparents are trying to scam the system.”

(Excerpted/abridged from the 2013 issue paper by Patricia Downs, VFC State Legislation Chair, [patti10@centurylink.net](mailto:patti10@centurylink.net))