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## HOUSE JOINT RESOLUTION NO. 140

Offered January 11, 2006

Prefiled January 11, 2006

*Proposing an amendment to Section 6 of Article II of the Constitution of Virginia, relating to districts for the House of Representatives and General Assembly, criteria for redistricting, and the establishment of the Virginia Redistricting Commission.*

Patron—Moran

Referred to Committee on Privileges and Elections

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendment to the Constitution of Virginia be, and the same hereby is, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 6 of Article II of the Constitution of Virginia as follows:

## ARTICLE II

## FRANCHISE AND OFFICERS

~~Section 6. Apportionment~~ *Districts for the House of Representatives and General Assembly; the Virginia Redistricting Commission.*

(a) Members of the House of Representatives of the United States and members of the Senate and of the House of Delegates of the General Assembly shall be elected from electoral districts established by the ~~General Assembly~~ *Virginia Redistricting Commission*. ~~Every electoral district shall be composed of contiguous and compact territory and shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district. The General Assembly shall reapportion the Commonwealth into electoral districts in accordance with this section in the year 2011 and every ten years thereafter.~~

~~Any such decennial reapportionment law shall take effect immediately and not be subject to the limitations contained in Article IV, Section 13, of this Constitution.~~

(b) By December 1 of each year that ends in zero, the Virginia Redistricting Commission shall be established to provide for the redistricting of congressional and state legislative districts. The Commission shall consist of five members. No more than two members of the Commission shall be members of the same political party. Of the first four members appointed, no more than two shall reside in the same county or city. Each member shall be a registered voter who is committed to applying the provisions of this section in an honest, independent, and impartial fashion and to upholding public confidence in the integrity of the redistricting process. Within the three years previous to appointment, members shall not have been appointed to, elected to, or a candidate for any other public office, and shall not have served as an officer of a political party, or served as a registered paid lobbyist or as an officer of a candidate's campaign committee.

(c) The Supreme Court shall nominate candidates for appointment to the Commission.

(d) By September 15 of each year that ends in zero, the Supreme Court shall establish a pool of persons who are willing to serve on and are qualified for appointment to the Commission. The pool of candidates shall consist of twenty-five nominees, with ten nominees from each of the two largest political parties in Virginia based on the vote for Governor in the most recent election and five who are not affiliated with either of the two largest political parties in Virginia and who are designated as independent by the Court. The Court may request the state chairman of each of the two largest political parties to submit a list of twenty suggested names for nominees from which the Court may make its ten nominations from that party.

(e) Appointments to the Commission shall be made in the order set forth below. No later than October 1 of each year ending in zero, the highest ranking officer elected by the House of Delegates shall make one appointment to the Commission from the pool of nominees, followed by one appointment from the pool made in turn by each of the following: the minority party leader of the House of Delegates, the highest ranking officer elected by the Senate, and the minority party leader of the Senate. Each such official shall have a seven-day period in which to make an appointment. Any official who fails to make an appointment within the specified time period will forfeit the appointment privilege. In the event that there are two or more minority parties within the House of Delegates or Senate, the leader of the largest minority party by membership in the House of Delegates or Senate, respectively, shall make the appointment.

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59 (f) Any vacancy in the above four Commission positions remaining as of November 1 of a year  
60 ending in zero shall be filled from the pool of nominees by the Supreme Court. The Court shall strive  
61 for political balance and fairness.

62 (g) At a meeting called by the Secretary of the Commonwealth prior to November 15 of the year  
63 ending in zero, the four Commission members shall select by majority vote from the nomination pool a  
64 fifth member from the pool of persons designated as independents; the fifth member shall serve as chair.  
65 If the four commissioners fail to appoint a fifth member within fifteen days, the Supreme Court, striving  
66 for political balance and fairness, shall appoint a fifth member from the nomination pool, who shall  
67 serve as chair.

68 (h) The five commissioners shall then select by majority vote one of their members to serve as  
69 vice-chair.

70 (i) After having been served written notice and provided with an opportunity for a response, a  
71 member of the Commission may be removed by the Governor, with the concurrence of two-thirds of the  
72 Senate, for substantial neglect of duty, gross misconduct in office, or inability to discharge the duties of  
73 office.

74 (j) If a commissioner or chair does not complete the term of office for any reason, the Supreme  
75 Court shall nominate a pool of three candidates within the first thirty days after the vacancy occurs.  
76 The nominees shall be of the same political party or status as was the member who vacated the office at  
77 the time of his appointment, and the appointment other than the chair shall be made by the current  
78 holder of the office designated to make the original appointment. The appointment of a new chair shall  
79 be made by the remaining commissioners. If the appointment of a replacement commissioner or chair is  
80 not made within fifteen days following the presentation of the nominees, the Supreme Court shall make  
81 the appointment, striving for political balance and fairness. The newly appointed commissioner shall  
82 serve out the remainder of the original term.

83 (k) Three commissioners, including the chair or vice-chair, constitute a quorum. Three or more  
84 affirmative votes are required for any official action. Where a quorum is present, the Commission shall  
85 conduct business in meetings open to the public, with forty-eight or more hours' public notice provided.

86 (l) A commissioner, during the commissioner's term of office and for three years thereafter, shall be  
87 ineligible for public office in the Commonwealth or for registration as a paid lobbyist.

88 (m) The Commission shall establish congressional and legislative districts. The commencement of the  
89 mapping process for both the congressional and state legislative districts shall be the creation of  
90 districts of equal population. The Commission shall also consider the following goals:

91 (1) Districts shall comply with the United States Constitution and the United States Voting Rights  
92 Act;

93 (2) Congressional districts shall have equal population to the extent practicable, and state legislative  
94 districts shall have equal population to the extent practicable;

95 (3) Districts shall be geographically compact and contiguous to the extent practicable;

96 (4) District boundaries shall respect communities of interest to the extent practicable;

97 (5) To the extent practicable, district lines shall use visible geographic features, city, town and  
98 county boundaries, and undivided census tracts; and

99 (6) To the extent practicable, competitive districts should be favored where to do so would create no  
100 significant detriment to the other goals.

101 (n) Voter registration and voting history data shall be excluded from the initial phase of the mapping  
102 process but may be used to test maps for compliance with the above goals. The places of residence of  
103 incumbents or candidates shall not be identified or considered.

104 (o) The Commission shall advertise for public comment a draft map of districts for the Senate and  
105 the House of Delegates no later than thirty days after receipt by the Commonwealth of the decennial  
106 redistricting data from the United States Bureau of the Census. The Commission shall advertise for  
107 public comment a draft map of congressional districts no later than ninety days after receipt by the  
108 Commonwealth of the decennial redistricting data from the United States Bureau of the Census. Public  
109 comment shall be taken for at least thirty days. Either or both houses of the General Assembly may act  
110 within this period to make recommendations to the Commission by memorial or by minority report,  
111 which recommendations shall be considered by the Commission. The Commission shall then establish  
112 final district boundaries as promptly as practicable.

113 (p) The provisions of this section are self-executing. The Commission shall certify to the Secretary of  
114 the Commonwealth the establishment of congressional and legislative districts.

115 (q) The General Assembly shall appropriate sufficient funds for the operation of the Commission and  
116 for compensation and expenses of members and staff appointed by the Commission.

117 (r) The Commission, with fiscal oversight from the Secretary of Administration, or his successor,  
118 shall have procurement and contracting authority and may hire staff and consultants for the purposes of  
119 this section, including legal representation.

120 (s) The Commission shall have standing in legal actions regarding the redistricting plan and the

adequacy of resources provided for the operation of the Commission. The Commission shall have sole authority to determine whether the Attorney General or counsel hired or selected by the Commission shall represent the Commonwealth in the legal defense of a redistricting plan.

(t) Each commissioner's duties established by this section expire upon the appointment of the first member of the next redistricting commission. The Commission shall not meet or incur expenses after the redistricting plan is completed, except if litigation or any government approval of the plan is pending, or to revise districts if required by court.

(u) The districts ~~delineated in the decennial reapportionment law~~ certified by the Commission pursuant to subsection (p) shall be implemented for the November general election for the United States House of Representatives, Senate, or House of Delegates, respectively, that is held immediately prior to the expiration of the term being served in the year that the ~~reapportionment law~~ is required to be enacted districts are certified by the Commission pursuant to subsection (p). A member in office at the time that a ~~decennial redistricting law~~ is enacted the districts are certified shall complete his term of office and shall continue to represent the district from which he was elected for the duration of such term of office so long as he does not move his residence from the district from which he was elected. Any vacancy occurring during such term shall be filled from the same district that elected the member whose vacancy is being filled.