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SENATE JOINT RESOLUTION NO. 5

Offered January 9, 2008

Prefiled November 28, 2007

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.

Patrons—Deeds; Delegate: Valentine

Referred to Committee on Privileges and Elections

RESOLVED by the Senate, the House of Delegates 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.~~ *Areas that meet only at the points of adjoining corners are not contiguous.*

~~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.~~

The districts delineated in the decennial reapportionment law 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. A member in office at the time that a decennial redistricting law is enacted 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.

(b) *To the extent consistent with subsection (a), district boundaries shall coincide with the boundaries of political subdivisions of the Commonwealth. The number of counties and cities divided among more than one district shall be as small as possible. When there is a choice between dividing local political subdivisions, the more populous subdivisions shall be divided before the less populous.*

(c) *No district shall be drawn for the purpose of favoring a political party or incumbent legislator or member of Congress. In establishing districts, no use shall be made of any of the following data:*

(1) *Addresses of incumbent legislators or members of Congress.*

(2) *Political affiliations of registered voters.*

(3) *Previous election results.*

(4) *Demographic information, other than population counts, except as required by the Constitution and laws of the United States.*

(d) *After the next and every subsequent decennial census of the United States, the districts for the House of Representatives, Senate, and House of Delegates shall be established, and the members of the House of Representatives, Senate, and House of Delegates shall be apportioned among the districts, respectively, by the Virginia Redistricting Commission. The Commission shall consist of thirteen members, none of whom shall be a member or employee of the Congress of the United States or of the General Assembly. The members of the Commission shall be appointed with due consideration to geographic diversity and in the manner provided herein.*

(e) *There first shall be appointed twelve members as follows:*

(1) *Two members to be appointed by the President pro tempore of the Senate;*

(2) *Two members to be appointed by the Speaker of the House of Delegates;*

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59 (3) Two members to be appointed by the leader in the Senate of the political party holding the most
60 seats in the Senate, other than the political party of the President pro tempore;

61 (4) Two members to be appointed by the leader in the House of Delegates of the political party
62 holding the most seats in the House of Delegates, other than the political party of the Speaker; and

63 (5) Four members, two to be appointed by the chairman of the state committee of the political party
64 whose candidate for the office of Governor received the largest number of votes at the most recent
65 gubernatorial election and two to be appointed by the chairman of the state committee of the political
66 party whose candidate for the office of Governor received the next largest number of votes in that
67 election.

68 Appointments to the Commission under this subsection shall be made on or before August 15 of the
69 year in which such census is taken and shall be certified to the Secretary of the Commonwealth on or
70 before September 1 of that year. Each partisan delegation so appointed shall appoint one of its
71 members as its chairman who shall have authority to make such certifications and to perform such other
72 tasks as the members of that delegation shall reasonably require.

73 (f) There then shall be appointed one member, to serve as an independent member, who shall have
74 been for the preceding five years a resident of the Commonwealth, but who shall not during that period
75 have held public or political party office in the Commonwealth. The independent member shall be
76 appointed upon the vote of at least seven of the previously appointed members of the Commission on or
77 before October 1 of the year in which the census is taken, and those members shall certify that
78 appointment to the Secretary of the Commonwealth on or before October 5 of that year. If the
79 previously appointed members are unable to appoint an independent member within the time allowed
80 therefor, they shall so certify to the Supreme Court not later than that October 5 and shall include in
81 that certification the names of the two persons who, in the members' final vote upon the appointment of
82 the independent member, received the greatest number of votes. Not later than November 1 following
83 receipt of that certification, the Supreme Court shall by majority vote of its full authorized membership
84 select, of the two persons so named, the one more qualified by education and occupational experience,
85 by prior public service in government or otherwise, and by demonstrated ability to represent the best
86 interests of the people of the Commonwealth, to be the independent member. The Court shall certify that
87 selection to the Secretary of the Commonwealth not later than the following November 5.

88 (g) Vacancies in the membership of the Commission occurring prior to the certification by the
89 Commission of the districts for the House of Representatives, Senate, and House of Delegates or during
90 any period in which the districts established by the Commission may be or are under challenge in court
91 shall be filled in the same manner as the original appointments were made within five days of their
92 occurrence. In the case of a vacancy in the membership of the independent member, if the other
93 members of the Commission are unable to fill that vacancy within that five-day period, they shall
94 transmit certification of such inability within three days of the expiration of the period to the Supreme
95 Court, which shall select the person to fill the vacancy within five days of receipt of that certification.

96 (h) The independent member shall serve as the chairman of the Commission. The Commission shall
97 meet to organize as soon as may be practicable after certification of the appointment of the independent
98 member, but not later than December 1 of the year in which the census is taken. At the organizational
99 meeting, the members of the Commission shall determine such organizational matters as they deem
100 appropriate. Thereafter, a meeting of the Commission may be called by the chairman or upon the
101 request of seven members, and seven members of the Commission shall constitute a quorum at any
102 meeting thereof for the purpose of taking any action.

103 (i) The Commission, by a majority of the whole number of its members, shall certify the
104 establishment of Senate and House of Delegates districts and the apportionment of members of the
105 Senate and the House of Delegates, respectively, to the Secretary of the Commonwealth within one
106 month of the receipt by the Governor of the official decennial census of the United States for Virginia,
107 or by March 1 of the year following the year in which the census is taken, whichever date is later.

108 (j) The Commission, by a majority of the whole number of its members, shall certify the
109 establishment of House of Representatives districts to the Secretary of the Commonwealth within three
110 months of the receipt by the Governor of the official decennial census of the United States for Virginia,
111 or by June 1 of the year following the year in which the census is taken, whichever date is later.

112 (k) The Commission, convened in an open public meeting and by a majority of the whole number of
113 its members, shall certify the establishment of districts. The Commission shall give at least
114 twenty-four-hours' public notice of the meeting. Any vote by the Commission upon a proposal to certify
115 the establishment of a district plan shall be taken by roll call and shall be recorded, and the vote of any
116 member in favor of any district plan shall nullify any vote which that member shall previously have cast
117 during the life of the Commission in favor of a different district plan. If the Commission is unable to
118 certify the establishment of districts by the time required due to the inability of a plan to achieve seven
119 votes, the two district plans receiving the greatest number of votes, but not fewer than five votes, shall
120 be submitted to the Supreme Court, which shall select and certify whichever of the two plans so

submitted conforms most closely to the requirements of this Constitution and the Constitution and laws of the United States.

(l) The Commission shall hold at least three public hearings in different parts of the Commonwealth on districts for the House of Representatives, Senate, and House of Delegates. The Commission shall, subject to the constraints of time and convenience, review plans for the establishment of districts submitted by members of the public.

(m) Meetings of the Commission shall be held at convenient times and locations. Meetings may be closed to the public with the exception of the public hearings required by subsection (l) of this section and any meeting at which the establishment of districts is certified as prescribed by subsections (i), (j), and (k) of this section.

(n) The General Assembly shall appropriate the funds necessary for the efficient operation of the Commission.

(o) Notwithstanding any provision to the contrary of this Constitution and except as otherwise required by the Constitution or laws of the United States, no court of the Commonwealth other than the Supreme Court shall have jurisdiction over any judicial proceeding challenging the appointment of members to the Commission, or any action, including the establishment of districts, by the Commission or other public officer or body under the provisions of this section.

(p) The districts established for the House of Representatives, Senate, or House of Delegates shall be used thereafter at any general election of members of the House of Representatives, Senate, or House of Delegates, respectively, and shall remain unaltered through the next year ending in zero in which a federal census for the Commonwealth is taken. Members of the House of Representatives, Senate, and House of Delegates in office at the time districts are established by the Commission shall complete their terms of office and continue to represent their districts as constituted at the time of their election to office. Any vacancy occurring in the House of Representatives, Senate, or House of Delegates shall be filled from the district as constituted when the member, whose vacancy is being filled, was elected to office.

(q) If a plan certified by the Commission is declared unlawful, the Commission shall reorganize and adopt another district plan in the same manner as herein required and within the period of time prescribed by the court or within such shorter period as may be necessary to ensure that the new plan is effective for the next succeeding primary and general election for all members of the House of Representatives, Senate, or House of Delegates.