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SENATE JOINT RESOLUTION NO. 59

Offered January 9, 2008

Prefiled January 8, 2008

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—Miller, J.C.

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. All districts shall be as equal in population as is practicable and required by federal law and relevant case law.*

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. The number of counties and cities divided among more than one district shall be as small as practicable. All districts shall encompass communities of interest to the extent practicable.

(c) No district shall be drawn for the purpose of favoring a political party or incumbent legislator or member of Congress. All districts shall promote competitiveness among candidates to the extent practicable. However, no district shall be made artificially competitive in violation of other standards set out in this section. 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) All district boundaries shall maintain the core geographical areas of existing districts to the extent practicable and not in conflict with other standards set out in this section.

(e) 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,

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59 respectively, by the Virginia Redistricting Commission. The Commission shall consist of five members
60 who shall be appointed as follows. By December 1 of the year ending in zero, the Chief Justice of the
61 Supreme Court shall prepare a list of fifteen retired judges who have indicated their willingness to serve
62 on the Commission. By December 15 of the year ending in zero, the Governor, President pro tempore of
63 the state Senate, and Speaker of the House of Delegates shall each select one retired judge from the list
64 of fifteen retired judges. By January 1 of the following year, the three members so selected shall select
65 two more retired judges from the list of fifteen retired judges. The five members so selected shall elect
66 one of their number to serve as chairman of the Commission. However, if the Governor, President pro
67 tempore of the Senate, and Speaker of the House of Delegates are all of the same political party, they
68 shall each select one retired judge from the list of fifteen retired judges and the minority party leaders
69 of the state Senate and House of Delegates shall each select one retired judge from the list of fifteen
70 retired judges. By January 1 of the following year, the five members so selected shall elect one of their
71 number to serve as chairman of the Commission.

72 (f) Vacancies in the membership of the Commission occurring prior to the submission by the
73 Commission of plans to establish districts for the House of Representatives, Senate, and House of
74 Delegates or during any period in which the districts established by the Commission may be or are
75 under challenge in court shall be filled in the same manner as the original appointments were made
76 within five days of their occurrence.

77 (g) The Commission, by a majority of at least four members, shall submit a bill for the establishment
78 of Senate and House of Delegates districts to the General Assembly within one month of the receipt by
79 the Governor of the official decennial census of the United States for Virginia, or by March 1 of the
80 year following the year in which the census is taken, whichever date is later. Within twenty days of the
81 date on which the Commission submits its bill to the General Assembly, the General Assembly shall act
82 on the bill. The General Assembly may amend the bill by a vote of two-thirds of the elected members of
83 each house but no amendment shall affect more than two percent of the population of any district as
84 drawn in the bill submitted by the Commission. Within ten days of the date on which the General
85 Assembly passes the bill, the Governor may submit amendments to the bill to the General Assembly but
86 no amendment shall affect more than two percent of the population of any district as drawn in the bill
87 submitted by the Commission. The Governor shall not have power to veto the bill. For any amendment
88 submitted by the Governor to become part of the bill, each house must agree to the amendment by a
89 vote of two-thirds of the elected members of the house. If the General Assembly fails to pass the bill
90 submitted by the Commission as submitted by the Commission or with amendments approved by the
91 General Assembly in compliance with this subsection, the bill shall be before the Supreme Court on the
92 thirty-first day following the date on which the Commission submitted its bill to the General Assembly.
93 The Court may consider recommendations submitted by the Governor or any member of the General
94 Assembly within seven days of the first date that the bill was before the Court. The Court shall certify
95 the final plan to establish state Senate and House of Delegates districts.

96 (h) The Commission, by a majority of at least four members, shall submit a bill for the establishment
97 of congressional districts to the General Assembly within three months of the receipt by the Governor of
98 the official decennial census of the United States for Virginia, or by June 1 of the year following the
99 year in which the census is taken, whichever date is later. Within twenty days of the date on which the
100 Commission submits its bill to the General Assembly, the General Assembly shall act on the bill. The
101 General Assembly may amend the bill by a vote of two-thirds of the elected members of each house but
102 no amendment shall affect more than two percent of the population of any district as drawn in the bill
103 submitted by the Commission. Within ten days of the date on which the General Assembly passes the
104 bill, the Governor may submit amendments to the bill to the General Assembly but no amendment shall
105 affect more than two percent of the population of any district as drawn in the bill submitted by the
106 Commission. The Governor shall not have power to veto the bill. For any amendment submitted by the
107 Governor to become part of the bill, each house must agree to the amendment by a vote of two-thirds of
108 the elected members of the house. If the General Assembly fails to pass the bill submitted by the
109 Commission as submitted by the Commission or with amendments approved by the General Assembly in
110 compliance with this subsection, the bill shall be before the Supreme Court on the thirty-first day
111 following the date on which the Commission submitted its bill to the General Assembly. The Court may
112 consider recommendations submitted by the Governor or any member of the General Assembly within
113 seven days of the first date that the bill was before the Court. The Court shall certify the final plan to
114 establish congressional districts.

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

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

(k) 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, General Assembly, or other public officer or body under the provisions of this section.

(l) 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.