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SENATE JOINT RESOLUTION NO. 284

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee on Privileges and Elections
on January 20, 2015)

(Patrons Prior to Substitute—Senators Vogel and Lucas [SJR 224])

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; district criteria; Virginia Redistricting Commission.

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; 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 shall be redistricted into electoral districts in accordance with this section in the year 2014 2021 and every ten years thereafter.~~

(b) *The Virginia Redistricting Commission shall consist of seven members. No member of the Commission or a member of his or her immediate family shall be a member or employee of the Congress of the United States or of the Virginia General Assembly, or be currently employed to lobby before any of these legislative bodies. Of the seven members, four shall be identified as members of political parties and three shall be independent public officials whose positions require the exercise of apolitical or nonpartisan judgment and discretion.*

(c) *The President pro tempore of the Senate, the leader in the Senate of the political party holding the most seats in the Senate other than the political party of the President pro tempore, the Speaker of the House of Delegates, and the leader in the House of Delegates of the political party holding the most seats in the House of Delegates other than the political party of the Speaker each shall appoint a member of his political party.*

(d) *The three independent public officials shall be the Auditor of Public Accounts, the State Inspector General, and the Executive Director of the Virginia State Bar.*

(e) *The members of the Commission shall take the oath of office administered by the Chief Justice of the Virginia Supreme Court or his or her designee. The Commission members shall elect their chairperson by simple majority vote. If the members are unable to achieve a majority vote, the chairperson shall be designated by the Chief Justice. All administrative and procedural decisions by the Commission shall be by a majority vote of four members. Final approval or adoption of redistricting plans shall be by a majority vote of five of the seven members of the Commission, including at least one vote from each of the political parties represented and from among the independent members.*

(f) *Every electoral district shall be constituted so as to adhere to the following criteria, in the order of priority in which the criteria are hereby set forth:*

(1) *Existing political boundaries shall be respected to the maximum extent possible. Political boundaries shall include the boundaries of counties, cities, towns, county magisterial and election districts, municipal councilmanic districts, and voting precincts. If a departure from existing political boundaries is necessary in order to comply with other districting criteria, the district lines shall be drawn utilizing clearly observable physical boundaries such as highways, roads, railroad lines, rivers, streams, and other natural or man-made features observable on official maps.*

(2) *Legislative and congressional districts shall be established on the basis of population. Senate and House of Delegates districts, respectively, shall each have a population that is as substantially equal to the population of every other such district as practicable. Congressional districts shall have populations that are as nearly equal as practicable. The Commission shall be guided by the most recent federal and state judicial decisions defining standards for equal population for the respective districts, including permissible deviations from ideal population if the deviation is necessary in order to achieve some other*

60 *legitimate districting criterion.*

61 (3) *Districts shall be drawn in accordance with the requirements of federal and state laws, and*
62 *judicial decisions interpreting such laws, that address racial and ethnic fairness, including the Equal*
63 *Protection Clause of the United States Constitution and the provisions of the federal Voting Rights Act*
64 *of 1965, as amended.*

65 (4) *Each legislative and congressional district shall be composed of contiguous territory. A district*
66 *shall be deemed contiguous if it is possible to travel from one point in the district to any other point in*
67 *the district without crossing the boundary of the district. Territory that touches the rest of a district only*
68 *by a point shall not be deemed contiguous territory. Districts divided by water shall be deemed*
69 *contiguous if a common means of transport, such as a bridge or ferry, connects the two parts of the*
70 *district or, if the water were to be removed, the land on one side of the district would be contiguous*
71 *with the land on the other side of the district.*

72 (5) *Each legislative and congressional district shall be composed of compact territory. Districts shall*
73 *not be oddly shaped or have irregular or contorted boundaries, unless justified because the district*
74 *adheres to political subdivision lines. Fingers or tendrils extending from a district core shall be avoided,*
75 *as shall thin and elongated districts and districts with multiple core populations connected by thin strips*
76 *of land or water. The Commission shall employ one or more standard numerical measures of individual*
77 *and average district compactness to provide an objective assessment of a districting plan's compactness,*
78 *both statewide and district-by-district.*

79 (g) *The Commission shall not include political data or election results as part of a redistricting*
80 *database, and no district shall be drawn using political data or election results in order to favor a*
81 *political party or incumbent legislator. This prohibition includes using addresses of incumbent*
82 *legislators, political affiliations of voters, and previous election results. This prohibition shall not apply*
83 *to minority or ethnic districts drawn pursuant to subdivision (f) (3) if an analysis of election data is*
84 *required in order to determine if racial or ethnic minorities can elect candidates of their choice.*

85 (h) *The Commission, by a majority vote of five of its seven members as prescribed in subsection (e),*
86 *shall certify the establishment of House of Delegates districts and Senate districts to the Secretary of the*
87 *Commonwealth within thirty days of receipt by the Governor of the official decennial census*
88 *redistricting numbers for Virginia or by the first day of June of the year following the year in which the*
89 *census is taken, whichever is earlier. The Commission, by the same majority vote, shall certify the*
90 *establishment of House of Representatives districts to the Secretary of the Commonwealth within sixty*
91 *days of receipt by the Governor of the official decennial census redistricting numbers for Virginia or by*
92 *the first day of July following the year in which the census is taken, whichever is earlier. The*
93 *Commission may solicit, receive, and consider redistricting plans from the general public in establishing*
94 *electoral districts.*

95 (i) *The Commission shall hold at least three public hearings in different parts of the Commonwealth*
96 *to receive and consider comments from the public on the various plans subject to consideration. The*
97 *Commission shall conduct its meetings and certify the adoption of plans in an open public meeting or*
98 *meetings located in the City of Richmond, allowing for comment and input from the public in its*
99 *consideration of proposed redistricting plans. The Commission shall give notice of its meetings at least*
100 *forty-eight hours in advance in either print or electronic media, or both. If the Commission is unable to*
101 *certify the establishment of districts within the prescribed time by a majority vote as prescribed in*
102 *subsection (e), the two districting plans receiving the greatest number of votes among the Commission*
103 *shall be submitted to the Supreme Court of Virginia, which shall approve and certify whichever of the*
104 *two plans most closely adheres to the requirements of this Constitution and the Constitution and laws of*
105 *the United States.*

106 (j) *The Commission shall be provided office space in the offices of the Division of Legislative*
107 *Services, and the General Assembly shall provide all such funds as may be necessary for the efficient*
108 *and independent operation of the Commission, including sums sufficient to hire legal counsel,*
109 *demographic experts, and such other staff as may be necessary to provide for the day-to-day operations*
110 *of the Commission.*

111 (k) *Notwithstanding any provision of this Constitution to the contrary and except as otherwise*
112 *required by the Constitution or laws of the United States, no court of the Commonwealth other than the*
113 *Supreme Court of Virginia shall have jurisdiction over any judicial proceeding challenging the*
114 *appointment of the members to the Commission or an action of the Commission, including the*
115 *establishment of districts. The Supreme Court of Virginia shall have original jurisdiction in mandamus*
116 *or prohibition to address any of the aforementioned issues, or any act, or failure to act in a timely*
117 *manner, as may be alleged against the Commission. In any such cases, the Supreme Court shall give*
118 *priority on the docket, and may expedite any such claim, including by deciding the matter on the papers*
119 *without argument as may be deemed appropriate by the Court.*

120 (l) *If a plan certified by the Commission is declared unlawful, the Commission shall reconvene and*
121 *adopt another district plan within such shorter period of time as prescribed by the Court or as*

122 *otherwise may be necessary to ensure that the new plan is effective for the next succeeding primary and*
 123 *general election for all members of the House of Representatives, Senate, and House of Delegates.*

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

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