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HOUSE JOINT RESOLUTION NO. 749

Offered January 16, 2017

Proposing an amendment to Section 6 of Article II of the Constitution of Virginia, relating to apportionment; Virginia Redistricting Commission.

Patrons—Bell, John J., Boysko, Heretick, Kory, Levine, Plum, Rasoul, Simon and Watts; Senator: Surovell

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; *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~~ *Virginia Redistricting Commission* shall reapportion the Commonwealth into electoral districts in accordance with this section in the year ~~2014~~ *2021* 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.

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) *The Virginia Redistricting Commission shall consist of seven members. No member of the Commission or a member of his immediate family shall be a member or employee of the Congress of the United States or of the Virginia General Assembly or be employed to lobby before any of these legislative bodies. The members of the Commission shall be appointed with due consideration to geographic diversity. 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.*

(1) *The members of the Commission shall be composed as follows:*

(A) *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.*

(B) *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.*

(2) *The members of the Commission shall take the oath of office administered by the Chief Justice of the Virginia Supreme Court or his designee. The Commission members shall elect a chairman by simple majority vote. If the members are unable to achieve a majority vote, the chairman 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.*

(3) *The term of office of each member of the Commission shall expire upon the appointment of the*

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58 first member of the succeeding Commission. Vacancies in the membership of the Commission occurring
59 prior to the certification by the Commission of the districts for the House of Representatives, Senate of
60 Virginia, and House of Delegates or during any period in which the districts established by the
61 Commission may be or are under challenge in court shall be filled in the same manner as the original
62 appointments were made within five days of their occurrence.

63 (c) In the calendar year following each decennial census of the United States, the Virginia
64 Redistricting Commission shall establish the districts for the House of Representatives of the United
65 States and for the Senate of Virginia and the House of Delegates and shall apportion the members of
66 the House of Representatives and the members of the Senate of Virginia and the House of Delegates
67 among the districts, respectively. Districts shall be drawn using the Shortest Split methodology pursuant
68 to subsection (d).

69 (d) The Shortest Split methodology is a mathematical algorithm used to create districts by population
70 distribution. The Commission shall use this methodology to divide the geographic area of the
71 Commonwealth into two halves of approximately equal population based on the official decennial census
72 redistricting numbers, choosing the shortest possible dividing line to split the state. The division of
73 halves shall continue until the required number of districts is achieved. The Commission shall make
74 adjustments to the resulting maps as may be necessary to achieve compliance with the requirements of
75 the federal Voting Rights Act of 1965, as amended. The Commission shall be authorized to make
76 adjustments to the resulting maps so that district boundaries coincide with existing political boundaries
77 and take into account geographic features.

78 (e) The Commission, by a majority vote of five of its seven members as prescribed in subdivision (b)
79 (2), shall certify the establishment of House of Delegates districts and Senate districts to the Secretary
80 of the Commonwealth within thirty days of receipt by the Governor of the official decennial census
81 redistricting numbers for Virginia or by the first day of June of the year following the year in which the
82 census is taken, whichever is earlier. The Commission, by the same majority vote, shall certify the
83 establishment of House of Representatives districts to the Secretary of the Commonwealth within sixty
84 days of receipt by the Governor of the official decennial census redistricting numbers for Virginia or by
85 the first day of July following the year in which the census is taken, whichever is earlier. The
86 Commission may solicit, receive, and consider redistricting plans from the general public in establishing
87 electoral districts.

88 If the Commission is unable to certify the establishment of districts within the prescribed time by a
89 majority vote as prescribed in subdivision (b) (2), the three independent members of the Commission
90 shall vote on the redistricting plans. The plan receiving the greatest number of votes among the three
91 independent members shall be the plan adopted, and the districts shall be so certified.

92 (f) The Commission shall hold at least three public hearings in different parts of the Commonwealth
93 to receive and consider comments from the public on the various plans subject to consideration. The
94 Commission shall conduct its meetings and certify the adoption of plans in an open public meeting or
95 meetings located in the City of Richmond, allowing for comment and input from the public in its
96 consideration of proposed redistricting plans. The Commission shall give notice of its public hearings
97 and meetings at least forty-eight hours in advance in either print or electronic media, or both.

98 (g) The General Assembly shall provide all such funds as may be necessary for the efficient and
99 independent operation of the Commission, including sums sufficient to hire legal counsel, demographic
100 experts, and such other staff as may be necessary to provide for the day-to-day operations of the
101 Commission.

102 (h) Notwithstanding any provision of this Constitution to the contrary and except as otherwise
103 required by the Constitution or laws of the United States, no court of the Commonwealth other than the
104 Supreme Court of Virginia shall have jurisdiction over any judicial proceeding challenging the
105 appointment of the members to the Commission or an action of the Commission, including the
106 establishment of districts. The Supreme Court of Virginia shall have original jurisdiction in mandamus
107 or prohibition to address any of the aforementioned issues, or any act or failure to act in a timely
108 manner, as may be alleged against the Commission. In any such cases, the Supreme Court shall give
109 priority on the docket and may expedite any such claim, including by deciding the matter on the papers
110 without argument, as may be deemed appropriate by the Court.

111 (i) If a plan certified by the Commission is declared unlawful, the Commission shall reconvene and
112 adopt another district plan within such shorter period of time as prescribed by the Court or as
113 otherwise may be necessary to ensure that the new plan is effective for the next succeeding primary and
114 general election for all members of the House of Representatives, Senate, and House of Delegates.