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HOUSE JOINT RESOLUTION NO. 104

Offered January 10, 2018

Prefiled January 10, 2018

Proposing an amendment to Section 6 of Article II of the Constitution of Virginia, relating to apportionment of legislative districts; criteria for legislative districts; creation of the Virginia Redistricting Commission.

Patrons—Heretick and Keam

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 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.

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 few as practicable. 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 affiliation 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). 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;

(3) Two members, to be appointed by the leader in the Senate of the political party holding the most

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59 seats in the Senate other than the political party of the President pro tempore;

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

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

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

72 (f) There then shall be appointed one member to serve as an independent member. The independent
73 member shall have been a resident of the Commonwealth for the preceding five years but shall not have
74 held public or political party office in the Commonwealth during that period. The independent member
75 shall be appointed upon the vote of at least seven of the previously appointed members of the
76 Commission on or before August 15 of the year in which the census is taken, and those members shall
77 certify that appointment to the Secretary of the Commonwealth on or before September 1 of that year. If
78 the previously appointed members are unable to appoint an independent member within the time allowed
79 for such appointment, they shall so certify to the Supreme Court not later than that September 1 and
80 shall include in that certification the names of the two persons who, in the members' final vote for
81 appointment of the independent member, received the greatest number of votes. Not later than
82 September 15 following receipt of that certification, the Supreme Court shall by majority vote of its full
83 authorized membership select, of the two persons so named, the one more qualified by education,
84 occupational experience, and demonstrated ability to represent the best interests of the people of the
85 Commonwealth to be the independent member. The Court shall certify that selection to the Secretary of
86 the Commonwealth not later than the following October 1.

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

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

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

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

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

121 submitted to the Supreme Court, which shall select and certify whichever of the two plans submitted
122 conforms most closely to the requirements of this Constitution and the Constitution and laws of the
123 United States.

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

128 (m) Meetings of the Commission shall be held at convenient times and locations. Meetings may be
129 closed to the public with the exception of the public hearings required by subsection (l) and the portion
130 of meetings at which the establishment of districts is certified as prescribed by subsections (i), (j), and
131 (k).

132 (n) The General Assembly shall appropriate the funds necessary for the efficient operation of the
133 Commission. The Commission shall have authority to employ staff and access resources sufficient for its
134 operation.

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

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

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