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HOUSE JOINT RESOLUTION NO. 71

Offered January 10, 2018

Prefiled January 8, 2018

Proposing an amendment to Section 6 of Article II of the Constitution of Virginia and proposing an amendment to the Constitution of Virginia by adding in Article II a section numbered 6-A, relating to appointment of legislative districts and creation of the Virginia Nonpartisan Redistricting Commission.

 Patron—Carr

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 amendments to the Constitution of Virginia be, and the same hereby are, 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 and amend the Constitution of Virginia by adding in Article II a section numbered 6-A as follows:

ARTICLE II

FRANCHISE AND OFFICERS

Section 6. Apportionment.

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 pursuant to Section 6-A. 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.

Section 6-A. Virginia Nonpartisan Redistricting Commission.

(a) There shall be constituted in each year ending in zero the Virginia Nonpartisan Redistricting Commission (the Commission), which shall perform its duties as stated herein and be dissolved in the following year ending in one.

(b) The Commission shall consist of seven members, none of whom shall be a member or employee of the Congress of the United States or the Virginia General Assembly. The members of the Commission shall be appointed with due consideration to geographic diversity. On or before August 1 of the year ending in zero, the Chief Justice of the Supreme Court shall prepare a list of twenty-five retired judges who have indicated their willingness to serve on the Commission. On or before August 15 of the year ending in zero, the Supreme Court shall, by a majority vote of its full, authorized membership, appoint seven members from the list provided by the Chief Justice. The members of the Commission shall select a chairman from its membership and may elect one of its members as vice-chairman. Vacancies in the membership of the Commission shall be filled in the same manner as the original appointments within five days of the vacancy.

(c) The Division of Legislative Services shall provide to the Commission sufficient staff with the requisite expertise. The staff of the Commission shall be under the control of the Chairman of the Commission from the time of the appointment of staff to the dissolution of the Commission. The staff of the Commission shall not be deprived of their employment during this time without the express consent of the Commission. Other support shall be provided by the Division of Legislative Services to the Commission as reasonably requested by the Commission.

(d) The Commission may request the assistance of outside counsel or experts as it shall deem

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59 necessary.

60 (1) Outside counsel or experts shall be certified by the Commission as nonpartisan at a public
61 meeting. Each outside counsel or expert shall pledge in writing that he will not, for at least five years
62 from the date of certification by the Commission, run for election in the congressional, Senate, or House
63 of Delegates districts drawn pursuant to this section. Outside counsel or experts shall have never held
64 elected partisan public office or political party office and shall have not received income during the past
65 twelve months from the General Assembly or a committee thereof, the Congress of the United States or
66 a committee thereof, a political party, a partisan candidate, or a committee controlled by a partisan
67 candidate. No individual who is or has been in the past five years a registered lobbyist as defined by
68 law may serve as outside counsel or expert to the Commission. Restrictions on previous employment
69 shall not be construed to prevent an employee of a Virginia institution of higher education from being
70 certified as outside counsel or expert by the Commission.

71 (2) No outside counsel or expert shall be appointed by the Commission who is a family member of
72 any member of the Commission, member of the General Assembly, chairman of either of the political
73 parties receiving the highest and next highest number of votes in the most recent gubernatorial election,
74 or member of the Virginia delegation to the United States Congress. For purposes of this section,
75 "family member" includes parent, child, sibling, uncle, aunt, niece, nephew, first cousin, spouse,
76 grandparent, and grandchild, whether by whole or half blood or by marriage.

77 (e) The Commission shall, before December 1 of the year ending in zero, hold a public meeting at
78 which it shall decide upon the operating procedures and other rules under which it will perform its
79 duties. It shall publish these procedures and rules, in addition to a schedule of public meetings to be
80 held during the map creation process, on paper and online. The Commission shall keep records of its
81 decisions, directions given to staff, and all other actions and activities as may be required to comply
82 with state and federal law.

83 (f) The Commission shall draw district lines in accordance with the following standards (the
84 Standards) for redistricting:

85 (1) All districts, to the extent practicable, shall be composed of contiguous and compact territories,
86 and no district shall be composed of territories contiguous only at one point. District boundaries may be
87 drawn to maintain the core geographical area of existing districts, to the extent that such boundaries
88 are not in conflict with the Standards.

89 (2) All district boundaries, to the extent practicable, shall coincide with the boundaries of political
90 subdivisions of the Commonwealth. The number of counties and cities divided among more than one
91 district shall be as few as practicable. When there is a choice between dividing local political
92 subdivisions, the more populous subdivision shall be divided before the less populous. To the extent
93 practicable, all districts shall encompass communities of interest.

94 (3) No district shall be drawn for the purpose of favoring a political party or incumbent legislator or
95 member of Congress or known candidate for political office.

96 (4) All district boundaries, to the extent practicable, shall be drawn to promote competitiveness.
97 However, no district shall be made artificially competitive in violation of the Standards.

98 (5) All districts shall be drawn to comply with this Constitution, the United States Constitution,
99 federal and state law, and relevant case law.

100 (g) Upon receipt of census data, the Commission and its staff shall create initial district maps. No
101 individuals other than the Commission's members, its staff, and its certified outside counsel or experts
102 shall be allowed to participate in the creation of initial district maps. Initial district maps shall be
103 created without the use of any data regarding election outcomes, voting history, voting trends or
104 patterns, or political affiliation of registered voters; residential addresses of incumbent legislators,
105 members of Congress, or candidates for such offices; or demographic information, other than population
106 counts, except as required by the Constitution and federal law.

107 Once initial district maps have been created, the Commission may access data regarding election
108 outcomes, voting history, voting trends or patterns, political affiliation of registered voters, and the
109 residential addresses of incumbent legislators, members of Congress, or candidates for such offices. This
110 data shall be provided to the Commission by the State Board of Elections at the request of the
111 Commission. This data shall be used only for the purpose of ensuring that the initial district maps
112 comply fully with the Standards. In no case shall such data be provided by a member or committee of
113 the General Assembly, a member of the United States Congress, a partisan office holder, a chairman or
114 official of the political party, a partisan candidate, or a member or official of a committee controlled by
115 or for a partisan candidate, or any individual who is or has been in the past five years a registered
116 lobbyist as defined by law.

117 (h) When initial district maps have been conformed to the Standards, the Commission, convened in
118 an open public meeting and by a majority of the whole number of its members, shall certify a single
119 initial district map as the Proposed Plan. The vote to certify a single initial district map as the
120 Proposed Plan shall be taken by roll call and shall be recorded. The commission shall give twenty-four

hours' public notice of this meeting.

(i) The Commission shall hold at least four public meetings at which it will receive public comment on the Proposed Plan. All members of the Commission shall attend every meeting. Meetings shall be held in different areas of the Commonwealth and at times and locations convenient for the public to attend. Sufficient time shall be allotted so as to reasonably allow public comment to be given. A record of each meeting shall be kept and the comments, or a reasonable summary thereof, shall be made available to the public. At the conclusion of the public comment period, the Commission may modify the Proposed Plan to account for the comments, and the modified map shall comply with the Standards.

(j) Within one month of the receipt by the Governor of the official decennial census of the United States for Virginia, or by April 1 of the year ending in one, whichever date is later, the Commission, convened in an open public meeting and by a majority of the whole number of its members, shall certify the Proposed Plan as the Nonpartisan Redistricting Commission Plan (the Plan). It shall cause the Plan to be submitted in the form of a bill for introduction to the President pro tempore of the Senate; the Speaker of the House of Delegates; 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; 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.

(k) The House of Delegates and Senate shall consider and vote on the bill to enact the Plan in accordance with their respective legislative rules for the consideration of and voting on bills, notwithstanding the following:

(1) If the standing committee of either house tasked with considering the bill to enact the Plan reports the bill with amendments, such action shall be communicated by the standing committee to the Commission. Within seven days of receipt of such communication, the Commission shall make a recommendation to the General Assembly as to whether the General Assembly should agree to the committee's report. No action on the bill shall be taken until the recommendation of the Commission has been received.

(2) If the house of origin passes the bill to enact the Plan with amendments, such action shall be communicated by the house of origin to the Commission. Within seven days of receipt of such communication, the Commission shall make a recommendation to the second house as to whether it should agree to the bill as amended by the house of origin. No action on the bill shall be taken until the recommendation of the Commission has been received. This process also applies to consideration of the bill in the second house.

(3) If the Governor proposes amendments to the bill, such action shall be communicated by the Governor to the Commission. The Commission shall make a recommendation to the General Assembly as to whether it should agree to the Governor's amendments at least one day prior to the General Assembly's consideration of the amendments. No action on the bill shall be taken until the recommendation of the Commission has been received.

If the bill to enact the Plan is rejected by the standing committee tasked with considering the bill or by the General Assembly, or if the bill fails to report for any reason, the Commission may, at the discretion of the Chairman of the Commission, prepare a new plan in accordance with the Standards and present it in the form of a bill to the parties listed in subsection (j) for its introduction and consideration pursuant to this subsection.

(l) The Commission, when required to submit a recommendation, shall hold a meeting to review the bill as amended in order to determine whether it complies with the Standards. The Commission may use any data it deems necessary to evaluate the potential outcome of implementing the amended bill. If the Commission decides by a majority vote that the proposed amended bill is not in accordance with the Standards, the Commission shall report to the parties listed in subsection (j) the manner in which the amended bill fails to comply with the Standards. The Commission may, at its discretion, propose changes to the amended bill that would bring it into compliance with the Standards. Such a meeting shall be an open public meeting and, subject to the constraints of time and convenience, allow for public comment.

(m) The Commission shall cooperate with and assist the Attorney General or other appropriate authority on matters related to the Nonpartisan Redistricting Commission Plan as enacted, to the extent necessary to comply with federal law.