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SENATE JOINT RESOLUTION NO. 274

Offered January 9, 2019

Prefiled January 4, 2019

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 apportionment; criteria for legislative and congressional districts; Virginia Citizens Redistricting Commission.

Patrons—Hanger, Locke, Ebbin and Lewis; Delegate: Hope

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 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.

(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 Citizens Redistricting Commission. The Virginia Citizens Redistricting Commission shall reapportion the Commonwealth into electoral districts in accordance with this section in the year 2021 and every ten years thereafter.* 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 constituted so as to adhere to the following standards and criteria:*

(1) *Legislative and congressional districts shall have a total population as nearly equal as practicable to the ideal population for such districts. Deviations from equal population may be permitted to achieve other redistricting criteria specified in this subsection, but in no case shall a congressional district have a total population that varies by more than one half of one percent from the ideal congressional district population nor shall an electoral district for the Senate or the House of Delegates have a total population that varies by more than five percent from the ideal district population for a Senate or House of Delegates district, respectively.*

(2) *Legislative and congressional districts shall not be drawn to abridge or deny the ability of substantial racial or ethnic minority communities to elect representatives of their choice.*

(3) *Legislative and congressional districts shall not be drawn to favor or disfavor any political party, incumbent legislator or member of Congress, or individual or entity.*

(4) *Legislative and congressional districts shall be drawn to respect existing political boundaries of counties, cities, and towns. To the extent practicable, and except in cases where the political subdivision is larger than an electoral district, each political subdivision shall be wholly contained within a single electoral district. Where a departure from existing political boundaries is necessary to comply with one or more of the redistricting criteria specified in this subsection, the district lines shall be drawn giving consideration to natural geographic boundaries, such as mountains and rivers; physical boundaries, such as major roads and residential subdivisions; and communities of interest.*

(5) *Legislative and congressional districts shall be composed of compact and contiguous territory. Districts divided by water may be deemed contiguous but connections by water running downstream or upriver are not permissible. Districts shall not have irregular or contorted perimeters, unless justified by one or more of the redistricting criteria specified in this subsection, including adherence to existing political boundaries or natural geographic boundaries.*

(b) 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.

(c) 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

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59 year that the reapportionment law is required to be enacted. A member in office at the time that a
60 decennial redistricting law is enacted shall complete his term of office and shall continue to represent
61 the district from which he was elected for the duration of such term of office so long as he does not
62 move his residence from the district from which he was elected. Any vacancy occurring during such
63 term shall be filled from the same district that elected the member whose vacancy is being filled.

64 *Section 6-A. Virginia Citizens Redistricting Commission.*

65 (a) *The Virginia Citizens Redistricting Commission is hereby created for the purpose of establishing*
66 *legislative and congressional districts pursuant to Article II, Section 6 of this Constitution.*

67 (b) *The Commission shall consist of ten members who shall be selected in accordance with the*
68 *provisions of this subsection.*

69 (1) *There shall be a Redistricting Commission Selection Committee consisting of five retired judges*
70 *of the circuit courts of Virginia. The members of the Committee shall be selected as follows:*

71 (A) *By November 15 of the year ending in zero, the Chief Justice of the Supreme Court of Virginia*
72 *shall submit in writing to the Clerks of the House of Delegates and the Senate a list of retired judges of*
73 *the circuit courts of Virginia who are willing to serve on the Committee. This list shall be disseminated*
74 *by the Clerks to the Speaker of the House of Delegates, the leader in the House of Delegates of the*
75 *political party having the next highest number of members in the House of Delegates, and the leaders in*
76 *the Senate of the political parties having the highest and next highest number of members in the Senate.*

77 (B) *Within five days of the receipt of this list, these members shall each select a name of a judge*
78 *from the list and notify the Clerk of the House of Delegates or the Senate, as appropriate, of their*
79 *selections. The four judges selected to serve on the Committee shall be immediately notified by the*
80 *Clerks of the House of Delegates and the Senate, communicating jointly.*

81 (C) *The four judges selected shall select, by a majority vote, a judge from the list prescribed by*
82 *subdivision (A) to serve as the fifth member of the Committee and to serve as the chair of the*
83 *Committee.*

84 (2) *By December 1 of the year ending in zero, the Committee shall hold a public meeting. At this*
85 *meeting, the Committee shall adopt a process by which registered voters of the Commonwealth may*
86 *apply to serve on the Virginia Citizens Redistricting Commission. The Committee shall cause to be*
87 *advertised throughout the Commonwealth information on the Commission and how interested persons*
88 *may apply. The application period shall be open for a reasonable amount of time.*

89 *Except as provided in subdivision (3) (A), all meetings of the Committee shall be open to the public.*

90 (3) *By March 1 of the year ending in one, the Committee shall select, by majority vote, from the list*
91 *of submitted applications twenty-two candidates for service on the Commission.*

92 (A) *The Commission candidates selected shall meet the criteria established by the General Assembly*
93 *by general law, including criteria for determining whether a voter is affiliated with a political party. In*
94 *selecting candidates, the Committee shall give consideration to the diversity of the Commonwealth. The*
95 *Committee may interview any applicant prior to selection and such interviews shall not be open to the*
96 *public.*

97 (B) *Five Commission candidates shall be voters who affiliate with the political party receiving the*
98 *highest number of votes for governor at the immediately preceding gubernatorial election and five*
99 *Commission candidates shall be voters who affiliate with the political party receiving the next highest*
100 *number of votes for governor at the immediately preceding gubernatorial election. Twelve Commission*
101 *candidates shall be voters who are not affiliated with either of those political parties.*

102 (C) *Upon selection of the Commission candidates, the Committee shall promptly transmit the name,*
103 *address, and occupation of each Commission candidate to the Speaker of the House of Delegates, the*
104 *leader in the House of Delegates of the political party having the next highest number of members in*
105 *the House of Delegates, and the leaders in the Senate of the political parties having the highest and*
106 *next highest number of members in the Senate. The Committee shall also release the names of the*
107 *Commission candidates to the public.*

108 (4) *Within five days of receipt of the list of twenty-two Commission candidates, the members of the*
109 *General Assembly receiving the list pursuant to subdivision (3) (C), beginning with the Speaker of the*
110 *House of Delegates and alternating sequentially by party, shall each strike one Commission candidate*
111 *affiliated with the opposite political party and two Commission candidates not affiliated with either of*
112 *the political parties receiving the highest and next highest number of votes for governor at the*
113 *immediately preceding gubernatorial election. The strikes shall be made with due consideration to*
114 *creating a Commission that reflects the diversity of the Commonwealth. All strikes shall be submitted to*
115 *the Committee chairperson.*

116 (5) *Upon receipt of the strikes made pursuant to subdivision (4), the Committee chairman shall*
117 *finalize the Commission membership. He shall promptly notify the Clerks of the House of Delegates and*
118 *the Senate of the ten members of the Commission and shall also notify the Commission members so*
119 *selected.*

120 (6) *The final membership shall consist of three Commission members who are affiliated with the*

political party receiving the highest number of votes for governor at the immediately preceding gubernatorial election, three Commission members who are affiliated with the political party receiving the next highest number of votes for governor at the immediately preceding gubernatorial election, and four Commission members who are not affiliated with either of those political parties.

(c) The term of office for each Commission member shall expire upon the selection of the members of the succeeding Commission. If any Commission member cannot, for any reason, complete his term, the Committee shall select as a replacement one of the candidates who had been stricken pursuant to subdivision (b) (4). The replacement shall be affiliated with the same political party if the Commission member whose seat he is filling was affiliated with a political party or shall not be affiliated with any political party if the Commission member whose seat he is filling was not affiliated with either of the political parties receiving the highest and next highest number of votes for governor at the immediately preceding gubernatorial election.

(d) By April 1 of the year ending in one, the Commission shall hold a public meeting. At this meeting, the Commission shall select, by a majority vote, one of the Commission members who is not affiliated with either of the political parties receiving the highest and next highest number of votes for governor at the immediately preceding gubernatorial election to serve as the chairperson.

(e) By June 1 of the year ending in one, the Commission shall certify the establishment of districts for the Senate and the House of Delegates to the State Board of Elections. By July 1 of the year ending in one, the Commission shall certify the establishment of districts for the United States House of Representatives to the State Board of Elections.

(1) Final approval or adoption of a redistricting plan shall be by an affirmative vote of seven of the ten Commission members, including at least one vote from each of the political parties receiving the highest and next highest number of votes for governor at the immediately preceding gubernatorial election. Abstentions shall not be permitted on a vote for final approval or adoption of a redistricting plan.

(2) The Commission shall promptly transmit the district plans to the Governor and the Clerks of the House of Delegates and the Senate. Such district plans shall be final and not subject to amendment or veto by the Governor or the General Assembly. The Commission shall also post the district plans on its website maintained pursuant to subsection (f).

(3) Districts established pursuant to this section shall constitute the official legislative and congressional districts until the next decennial reapportionment, or as may be required by a court.

(f) All meetings of the Commission shall be open to the public. Prior to proposing any redistricting plans and prior to voting on redistricting plans, the Commission shall hold at least three public hearings in different parts of the Commonwealth to receive and consider comments from the public.

The Commission shall establish and maintain a website or other equivalent electronic platform. The website shall be available to the general public and shall be used to disseminate information about the Commission's activities. The website shall be capable of receiving comments and proposals by citizens of the Commonwealth. Prior to voting on any proposed redistricting plan, the Commission shall publish the Commission's proposed plans and all submitted comments and citizen proposals on the Commission's website.

(g) The General Assembly shall designate by law a state agency to provide logistical and technical support to the Commission, including providing access to computer software capable of processing and drawing legislative and congressional districts, and shall provide such funds sufficient for the operation of the Commission.

(h) All records and documents of the Commission, or any individual or group performing delegated functions of or advising the Commission, related to the Commission's work, including internal communications and communications from outside parties, shall be considered public information.