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SENATE BILL NO. 236

AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the Senate Committee on Privileges and Elections
on February 4, 2020)

(Patrons Prior to Substitute—Senators Barker, Cosgrove [SB 358], and Hanger [SB 974])

A BILL to provide for the submission to the voters of a proposed amendment to Section 6 of Article II of the Constitution of Virginia and a proposed amendment to the Constitution of Virginia by adding in Article II a section numbered 6-A, relating to apportionment; Virginia Redistricting Commission.

Be it enacted by the General Assembly of Virginia:

1. § 1. It shall be the duty of the officers conducting the election directed by law to be held on the Tuesday after the first Monday in November 2020, at the places appointed for holding the same, to open a poll and take the sense of the qualified voters upon the ratification or rejection of the proposed amendments to the Constitution of Virginia, contained herein and in the joint resolution proposing such amendments, to wit:

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 of this Constitution. 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. Every electoral district shall be drawn in accordance with the requirements of federal and state laws that address racial and ethnic fairness, including the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States and provisions of the Voting Rights Act of 1965, as amended, and judicial decisions interpreting such laws. Districts shall provide, where practicable, opportunities for racial and ethnic communities to elect candidates of their choice.

The General Assembly shall reapportion the Commonwealth shall be reapportioned into electoral districts in accordance with this section and Section 6-A 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.

Section 6-A. Virginia Redistricting Commission.

(a) In the year 2020 and every ten years thereafter, the Virginia Redistricting Commission (the Commission) shall be convened for the purpose of establishing districts for the United States House of Representatives and for the Senate and the House of Delegates of the General Assembly pursuant to Article II, Section 6 of this Constitution.

(b) The Commission shall consist of sixteen commissioners who shall be selected in accordance with the provisions of this subsection.

(1) Eight commissioners shall be legislative members, four of whom shall be members of the Senate of Virginia and four of whom shall be members of the House of Delegates. These commissioners shall be appointed no later than December 1 of the year ending in zero and shall continue to serve until their successors are appointed.

(A) Two commissioners shall represent the political party having the highest number of members in the Senate of Virginia and shall be appointed by the President pro tempore of the Senate of Virginia.

(B) Two commissioners shall represent the political party having the next highest number of members in the Senate of Virginia and shall be appointed by the leader of that political party.

(C) Two commissioners shall represent the political party having the highest number of members in the House of Delegates and shall be appointed by the Speaker of the House of Delegates.

60 (D) Two commissioners shall represent the political party having the next highest number of
61 members in the House of Delegates and shall be appointed by the leader of that political party.

62 (2) Eight commissioners shall be citizen members who shall be selected in accordance with the
63 provisions of this subdivision and in the manner determined by the General Assembly by general law.

64 (A) There shall be a Redistricting Commission Selection Committee (the Committee) consisting of five
65 retired judges of the circuit courts of Virginia. By November 15 of the year ending in zero, the Chief
66 Justice of the Supreme Court of Virginia shall certify to the Speaker of the House of Delegates, the
67 leader in the House of Delegates of the political party having the next highest number of members in
68 the House of Delegates, the President pro tempore of the Senate of Virginia, and the leader in the
69 Senate of Virginia of the political party having the next highest number of members in the Senate a list
70 of retired judges of the circuit courts of Virginia who are willing to serve on the Committee, and these
71 members shall each select a judge from the list. The four judges selected to serve on the Committee
72 shall select, by a majority vote, a judge from the list prescribed herein to serve as the fifth member of
73 the Committee and to serve as the chairman of the Committee.

74 (B) By January 1 of the year ending in one, the Speaker of the House of Delegates, the leader in the
75 House of Delegates of the political party having the next highest number of members in the House of
76 Delegates, the President pro tempore of the Senate of Virginia, and the leader in the Senate of the
77 political party having the next highest number of members in the Senate shall each submit to the
78 Committee a list of at least sixteen citizen candidates for service on the Commission. Such citizen
79 candidates shall meet the criteria established by the General Assembly by general law.

80 The Committee shall select, by a majority vote, two citizen members from each list submitted. No
81 member or employee of the Congress of the United States or of the General Assembly shall be eligible
82 to serve as a citizen member.

83 (c) By February 1 of the year ending in one, the Commission shall hold a public meeting at which it
84 shall select a chairman from its membership. The chairman shall be a citizen member and shall be
85 responsible for coordinating the work of the Commission.

86 (d) The Commission shall submit to the General Assembly plans for districts for the Senate and the
87 House of Delegates of the General Assembly no later than 45 days following the receipt of census data
88 and shall submit to the General Assembly plans for districts for the United States House of
89 Representatives no later than 60 days following the receipt of census data or by the first day of July of
90 that year, whichever occurs later.

91 (1) To be submitted as a proposed plan for districts for members of the United States House of
92 Representatives, a plan shall receive affirmative votes of at least six of the eight legislative members and
93 six of the eight citizen members.

94 (2) To be submitted as a proposed plan for districts for members of the Senate, a plan shall receive
95 affirmative votes of at least six of the eight legislative members, including at least three of the four
96 legislative members who are members of the Senate, and at least six of the eight citizen members.

97 (3) To be submitted as a proposed plan for districts for members of the House of Delegates, a plan
98 shall receive affirmative votes of at least six of the eight legislative members, including at least three of
99 the four legislative members who are members of the House of Delegates, and at least six of the eight
100 citizen members.

101 (e) Plans for districts for the Senate and the House of Delegates shall be embodied in and voted on
102 as a single bill. The vote on any bill embodying a plan for districts shall be taken in accordance with
103 the provisions of Article IV, Section 11 of this Constitution, except that no amendments shall be
104 permitted. Such bills shall not be subject to the provisions contained in Article V, Section 6 of this
105 Constitution.

106 (f) Within fifteen days of receipt of a plan for districts, the General Assembly shall take a vote on the
107 bill embodying that plan in accordance with the provisions of subsection (e). If the General Assembly
108 fails to adopt such bill by this deadline, the Commission shall submit a new plan for districts to the
109 General Assembly within fourteen days of the General Assembly's failure to adopt the bill. The General
110 Assembly shall take a vote on the bill embodying such plan within seven days of receipt of the plan. If
111 the General Assembly fails to adopt such bill by this deadline, the districts shall be established by the
112 Supreme Court of Virginia.

113 (g) If the Commission fails to submit a plan for districts by the deadline set forth in subsection (d),
114 the Commission shall have fourteen days following its initial failure to submit a plan to the General
115 Assembly. If the Commission fails to submit a plan for districts to the General Assembly by this
116 deadline, the districts shall be established by the Supreme Court of Virginia.

117 If the Commission submits a plan for districts within fourteen days following its initial failure to
118 submit a plan, the General Assembly shall take a vote on the bill embodying such plan within seven
119 days of its receipt. If the General Assembly fails to adopt such bill by this deadline, the districts shall be
120 established by the Supreme Court of Virginia.

121 (h) 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.

(i) 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.

§ 2. The ballot shall contain the following question:

"Question: Should the Constitution of Virginia be amended to establish a redistricting commission, consisting of eight members of the General Assembly and eight citizens of the Commonwealth, that is responsible for drawing the congressional and state legislative districts that will be subsequently voted on, but not changed by, the General Assembly and enacted without the Governor's involvement?"

The ballots shall be prepared, distributed and voted, and the results of the election shall be ascertained and certified, in the manner prescribed by § 24.2-684 of the Code of Virginia. The State Board of Elections shall comply with § 30-19.9 of the Code and shall cause to be sent to the electoral boards of each county and city sufficient copies of the full text of the amendments and question contained herein for the officers of election to post in each polling place on election day.

The electoral board of each county and city shall make out, certify and forward an abstract of the votes cast for and against such proposed amendments in the manner now prescribed by law in relation to votes cast in general elections.

The State Board of Elections shall open and canvass such abstracts and examine and report the whole number of votes cast at the election for and against such amendments in the manner now prescribed by law in relation to votes cast in general elections. The State Board of Elections shall record a certified copy of such report in its office and without delay make out and transmit to the Governor an official copy of such report, certified by it. The Governor shall without delay make proclamation of the result, stating therein the aggregate vote for and against the amendments.

If a majority of those voting vote in favor of the amendments, they shall become effective on November 15, 2020.

The expenses incurred in conducting this election shall be defrayed as in the case of election of members of the General Assembly.