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HOUSE JOINT RESOLUTION NO. 61

Offered January 11, 2006

Prefiled January 9, 2006

Proposing an amendment to Section 6 of Article II of the Constitution of Virginia, relating to districts for the House of Representatives and General Assembly and the redistricting process.

Patron—Armstrong

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* *Districts for the House of Representatives and General Assembly; the redistricting process.*

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. 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.

(a) *Boundary lines of the congressional, Senate, and House of Delegates districts shall be established as provided in this section.*

(b) *In the year following the year in which the national census is taken under the direction of Congress at the beginning of each decade, a panel of special masters composed of retired judges shall adjust the boundary lines of the congressional, Senate, and House of Delegates districts in accordance with the standards and provisions of this section.*

(c) (1) *On or before November of the year in which the national census is taken, leaders of the General Assembly shall appoint, pursuant to the provisions of subdivision (2) of this subsection, a panel of special masters composed of retired judges to adopt a plan of redistricting adjusting the boundary lines of the congressional, Senate, and House of Delegates districts pursuant to this section.*

(2) (A) *In sufficient time to allow the appointment of the special masters, the Supreme Court shall nominate by lot twenty-four retired judges willing to serve as special masters. Only retired Virginia state or federal judges, who have never held elected partisan public office or political party office, and have not received income during the past twelve months from the General Assembly, a committee thereof, the United States Congress, a committee thereof, a political party, or a partisan candidate or committee controlled by such candidate, are qualified to serve as special master. Not more than twelve of the twenty-four retired judges may be of a single party affiliation, and the two largest political parties with the highest and next highest number of members in the General Assembly shall be equally represented among the nominated retired judges.*

(B) *A retired judge selected to serve as a special master shall also pledge, in writing, that he or she will not run for election in the congressional, Senate, and House of Delegates districts adjusted by him or her pursuant to this section nor accept, for at least five years from the date of appointment as a special master, Virginia state public employment or public office, other than judicial employment or*

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59 *judicial office or a teaching position.*

60 *(C) From the pool of retired judges nominated by the Supreme Court, the Speaker of the House of*
61 *Delegates, the minority leader of the House of Delegates, the President pro tempore of the Senate, and*
62 *the Minority Leader of the Senate shall each nominate, no later than five days before the deadline for*
63 *appointment of the panel of special masters, three retired judges, who are not members of the same*
64 *political party as that of the legislator making the nomination. No retired judge may be nominated by*
65 *more than one legislator.*

66 *(D) If, for any reason, any of the aforementioned legislative leadership fails to nominate the requisite*
67 *number of retired judges within the time period specified herein, the Clerk of the House of Delegates*
68 *shall immediately draw, by lot, that legislator's remaining nominees in accordance with the requirements*
69 *of paragraph (C) of this subdivision.*

70 *(E) No later than three days before the deadline for appointment of the panel of special masters,*
71 *each legislator authorized to nominate a retired judge shall also be entitled to exercise a single*
72 *peremptory challenge, striking the name of any nominee of any other legislator.*

73 *(F) From the list of remaining nominees selected by the legislative leadership, the Clerk of the*
74 *House of Delegates shall then draw, by lot, three persons to serve as special masters. If the drawing*
75 *fails to produce at least one special master from each of the two political parties, the drawing shall be*
76 *conducted again until this requirement is met. If the drawing is unable to produce at least one special*
77 *master from each of such political parties, the drawing for the special master from the political party*
78 *not represented from the list of remaining nominees shall be made from the original pool of 24 retired*
79 *judges nominated by the Supreme Court, except that no retired judge whose name was struck pursuant*
80 *to paragraph (E) of this subdivision may be appointed. In the event of a vacancy in the panel of special*
81 *masters, the Clerk shall immediately thereafter draw, by lot, from the list of remaining nominees*
82 *selected by said legislative leadership, or the original pool of twenty-four retired judges, if necessary,*
83 *except for those whose names were struck, a replacement who satisfies the composition requirements for*
84 *the panel under this subdivision.*

85 *(d) Each special master shall be compensated at the same rate for each day engaged in official*
86 *duties and reimbursed for actual and necessary expenses, including travel expenses, as provided by law.*
87 *The special masters' terms of office shall expire upon approval or rejection of a plan pursuant to*
88 *subdivision (h).*

89 *(e) Each special master shall file a statement of economic interest, or any successor document, to the*
90 *same extent and in the same manner as a sitting judge.*

91 *(f) (1) Public notice shall be given of all meetings of the panel of special masters, and the panel*
92 *shall be deemed a state agency subject to freedom of information act requirements. All meetings and*
93 *sessions of the panel shall be recorded. The panel shall establish procedures that restrict ex parte*
94 *communications from members of the public, the General Assembly, and Congress concerning the merits*
95 *of any redistricting plan.*

96 *(2) The panel shall establish and publish a schedule to receive and consider proposed redistricting*
97 *plans and public comment from any person. The panel shall hold at least three public hearings*
98 *throughout the Commonwealth to consider redistricting plans. At least one such hearing shall be held*
99 *after the special masters have submitted their proposed redistricting plan pursuant to subdivision (3) of*
100 *this subsection, but before adoption of the final plan.*

101 *(3) Before the adoption of a final redistricting plan, the special masters shall submit their plan to the*
102 *General Assembly for an opportunity to comment within the time set by the special masters. The special*
103 *masters shall address in writing each change to their plan that is recommended by the General*
104 *Assembly and incorporated into the plan.*

105 *(g) The final redistricting plan shall be approved by a single resolution adopted unanimously by the*
106 *special masters and shall become effective upon its filing with the Clerk of the House of Delegates for*
107 *use at the next statewide primary and general elections, and, if approved by the voters in a referendum*
108 *pursuant to subsection (h), for succeeding elections until the next adjustment of boundaries is required*
109 *pursuant to this section.*

110 *(h) The election officials of the Commonwealth shall submit the final redistricting plan as if it were a*
111 *constitutional amendment proposed under Section 1 of Article XII at the next general election for*
112 *approval or rejection by the voters for use in succeeding elections until the next adjustment of*
113 *boundaries is required. The ballot question shall read: "Shall the boundary lines of congressional,*
114 *Senate, and House of Delegates districts adopted by special masters as required by Section 6 of Article*
115 *II of the Constitution of Virginia, be used until the next constitutionally required adjustment of the*
116 *boundaries?"*

117 *(i) If the redistricting plan is approved by the voters pursuant to subsection (h), it shall be used in*
118 *succeeding elections until the next adjustment of boundaries is required. If the plan is rejected by the*
119 *voters pursuant to subsection (h), a new panel of special masters shall be appointed within ninety days*
120 *in the manner provided in subdivision (2) of subsection (c), for the purpose of proposing a new plan for*

the next statewide primary and general elections pursuant to this section. Any officials elected under a final redistricting plan shall serve out their term of office notwithstanding the voters' disapproval of the plan for use in succeeding primary and general elections.

(j) The General Assembly shall make such appropriations from its operating budget as are necessary to provide the special masters with equipment, office space, and necessary personnel, including counsel and independent experts in the field of redistricting and computer technology, to assist them in their work.

(k) Except for judicial decrees, the provisions of this section are the exclusive means of adjusting the boundary lines of the districts specified herein.

(l) (1) Each member of the House of Representatives, Senate, and House of Delegates shall be elected from a single-member district.

(2) The population of all districts of a particular type shall be as nearly equal as practicable. For congressional districts, the maximum population deviation between districts shall not exceed federal constitutional standards. For Senate and House of Delegates districts, the maximum population deviation between districts of the same type shall not exceed one percent or any stricter standard required by federal law.

(3) Districts shall comply with any additional requirements of the United States Constitution and any applicable federal statute, including the federal Voting Rights Act.

(4) Every district shall be contiguous.

(5) District boundaries shall conform to the geographic boundaries of a county, city, or city and county to the greatest extent practicable. In this regard, a redistricting plan shall comply with these criteria in the following order of importance: (i) create the most whole counties possible, (ii) create the fewest county fragments possible, (iii) create the most whole cities possible, and (iv) create the fewest city fragments possible, except as necessary to comply with the requirements of the preceding subdivisions of this subsection.

(6) Every district shall be as compact as practicable except to the extent necessary to comply with the requirements of the preceding subdivisions of this subsection. With regard to compactness, to the extent practicable a contiguous area of population shall not be bypassed to incorporate an area of population more distant.

(7) No census block shall be fragmented unless required to satisfy the requirements of the United States Constitution.

(8) No consideration shall be given as to the potential effects on incumbents or political parties. No data regarding the residence of an incumbent or of any other candidate or the party affiliation or voting history of electors may be used in the preparation of plans, except as required by federal law.

(n) Any action or proceeding alleging that a plan adopted by the special masters does not conform with the requirements of this section must be filed within forty-five days of the filing of the plan with the Clerk of the House of Delegates or such action or proceeding is forever barred. Judicial review of the conformity of any plan with the requirements of this section may be pursuant to a petition for extraordinary relief. If any court finds a plan to be in violation of this section, it may order that a new plan be adopted by a panel of special masters pursuant to this section. A court may order any remedy necessary to effectuate this section.