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HOUSE JOINT RESOLUTION NO. 702

Offered January 14, 2009

Prefiled January 14, 2009

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 establishment of the Virginia Redistricting Commission.

Patron—Barlow

Referred to Committee on Rules

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 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 reapportionment law shall take effect immediately and not be subject to the limitations contained in Article IV, Section 13, of this Constitution.~~

(b) ~~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.~~

(c) ~~The Commission shall consist of eleven members. The members of the Commission, including one member to serve as chairman, shall be appointed by the most recently retired chief justice of the Virginia Supreme Court. There shall be one member appointed from each congressional district if Virginia has eleven congressional districts, or with due consideration to geographic diversity if there are more or fewer congressional districts. If the most recently retired chief justice declines to make appointments, the most recently retired justice who agrees to make the appointments shall do so.~~

(d) ~~Persons appointed to the Commission shall be retired justices or judges of the Supreme Court, Court of Appeals, or courts of record of the Commonwealth. No person shall be appointed to the Commission who is engaged in the active practice of law, who is a member, appointee, or employee of the Congress of the United States or the General Assembly, or who is older than eighty years at the time of appointment. Persons who serve on the Commission shall be ineligible thereafter to be appointed, confirmed, elected, or employed by the General Assembly to or in any position or office.~~

(e) ~~Appointments to the Commission shall be made on or before December 1 of the year in which such census is taken and shall be certified to the Secretary of the Commonwealth on or before December 15 of that year.~~

(f) ~~Vacancies in the membership of the Commission occurring prior to the certification by the Commission of the districts for the House of Representatives, Senate, and House of Delegates or during any period in which the districts established by the Commission may be or are under challenge in court shall be filled within five days of their occurrence in the same manner as the original appointments were made.~~

(g) ~~The Commission shall meet to organize as soon as may be practicable after certification of the appointments of its members, but not later than January 1 of the year following the year in which the census is taken. At the organizational meeting the members of the Commission shall determine such organizational matters as they deem appropriate. Thereafter, a meeting of the Commission may be called by the chairman or upon the request of six members, and six members of the Commission shall~~

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59 constitute a quorum at any meeting thereof for the purpose of taking any action.

60 (h) The Commission, by a majority of the whole number of its members, shall certify the
61 establishment of Senate and House of Delegates districts and the apportionment of members of the
62 Senate and the House of Delegates, respectively, to the Secretary of the Commonwealth within thirty
63 days after the Governor receives the official United States decennial census for Virginia.

64 (i) The Commission, by a majority of the whole number of its members, shall certify the
65 establishment of House of Representatives districts to the Secretary of the Commonwealth within sixty
66 days after the Governor receives the official United States decennial census for Virginia.

67 (j) The Commission, convened in an open public meeting and by a majority of the whole number of
68 its members, shall certify the establishment of districts. The Commission shall give at least
69 twenty-four-hours' public notice of the meeting. Any vote by the Commission upon a proposal to certify
70 the establishment of a district plan shall be taken by roll call and shall be recorded, and the vote of any
71 member in favor of any district plan shall nullify any vote which that member shall previously have cast
72 during the life of the Commission in favor of a different district plan. If the Commission is unable to
73 certify the establishment of districts by the time required due to the inability of a plan to achieve six
74 votes, the two district plans receiving the greatest number of votes, but not fewer than four votes, shall
75 be submitted to the Supreme Court, which shall select and certify whichever of the two plans so
76 submitted conforms most closely to the requirements of this Constitution and the Constitution and laws
77 of the United States.

78 (k) The Commission shall hold at least three public hearings in different parts of the Commonwealth
79 on districts for the House of Representatives, Senate, and House of Delegates. The Commission shall,
80 subject to the constraints of time and convenience, review plans for the establishment of districts
81 submitted by members of the public.

82 (l) Meetings of the Commission shall be held at convenient times and locations and, with the
83 exception of the public hearings required by subsection (k) and any meeting at which the establishment
84 of districts is certified as prescribed by subsections (h), (i), and (j), may be closed to the public.

85 (m) The General Assembly shall appropriate the funds necessary for the efficient operation of the
86 Commission and shall provide that the Division of Legislative Services, or its successor agency, shall
87 serve as staff to the Commission.

88 (n) Notwithstanding any provision to the contrary of this Constitution and except as otherwise
89 required by the Constitution or laws of the United States, no court of the Commonwealth other than the
90 Supreme Court shall have jurisdiction over any judicial proceeding challenging the appointment of
91 members to the Commission, or any action, including the establishment of districts, by the Commission
92 under the provisions of this section.

93 (o) The districts established for the House of Representatives, Senate, and House of Delegates shall
94 be used thereafter at any general election of members of the House of Representatives, Senate, and
95 House of Delegates and shall remain unaltered through the next year ending in zero in which a federal
96 census for the Commonwealth is taken and until new districts are established in the year following the
97 year ending in zero. However, the State Board of Elections, or its successor agency, on the request of a
98 county, city, or town electoral board may petition the circuit court of the City of Richmond to order a
99 technical adjustment to the boundary of a congressional or state legislative district solely to conform the
100 boundary to the locality's precinct or local election district boundaries. The term "technical adjustment"
101 shall be defined by law. The decision of the circuit court shall be final and not subject to appeal.

102 (p) If a plan certified by the Commission is declared unlawful, the Commission shall reorganize and
103 adopt another district plan in the same manner as herein required and within the period of time
104 prescribed by the court or within such shorter period as may be necessary to ensure that the new plan
105 is effective for the next succeeding primary and general election for all members of the United States
106 House of Representatives, Senate, or House of Delegates.

107 (q) The districts delineated in the decennial reapportionment law certified by the Commission shall be
108 implemented for the November general election for the United States House of Representatives, Senate,
109 or House of Delegates, respectively, that is held immediately prior to the expiration of the term being
110 served in the year that the reapportionment law is required to be enacted districts are certified by the
111 Commission. A member in office at the time that a decennial redistricting law is enacted the districts are
112 certified shall complete his term of office and shall continue to represent the district from which he was
113 elected for the duration of such term of office so long as he does not move his residence from the
114 district from which he was elected. Any vacancy occurring during such term shall be filled from the
115 same district that elected the member whose vacancy is being filled.