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HOUSE JOINT RESOLUTION NO. 663

Offered January 9, 2013

Prefiled January 8, 2013

Proposing an amendment to Section 6 of Article II of the Constitution of Virginia and adding in Article II a section numbered 6-A, relating to apportionment of districts for the House of Representatives and General Assembly and creating 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 amendment to Section 6 of Article II of the Constitution of Virginia and the addition of Section 6-A in Article II 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 add 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 *following presentation to it of proposed plans prepared by the Virginia Nonpartisan 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 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. The Virginia Nonpartisan Redistricting Commission.

(a) *There shall be constituted in each year ending in zero the Virginia Nonpartisan Redistricting 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 United States Congress or of the General Assembly. The members of the Commission shall be appointed with due consideration to geographic diversity and in the following manner: By August 1 of the year ending in zero, the Chief Justice of the Supreme Court shall prepare a list of 25 retired judges who have indicated their willingness to serve on the Commission. By August 15 of the year ending in zero, the Supreme Court shall, by majority vote of its full authorized membership, appoint seven members from among 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 were made within five days of their occurrence.*

(c) *The Commission shall draw district lines in accordance with the following standards for redistricting (hereafter referred to as Standards):*

(1) *All districts shall be composed of contiguous and compact territory and shall be as equal in population as is practicable and in compliance with federal law. No district shall be composed of territories contiguous only at a point.*

(2) *All districts shall be drawn to comply with the Constitution of Virginia, the United States*

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59 Constitution, federal law, the federal Voting Rights Act as amended, and relevant case law.

60 (3) All districts, to the extent practicable, shall respect the boundary lines of existing political
61 subdivisions. More populous subdivisions shall be divided between or among districts before less
62 populous subdivisions are divided. The number of counties and cities divided among multiple districts
63 shall be as few as practicable.

64 (4) All districts shall encompass communities of interest.

65 (5) No district shall be drawn with consideration for the impact on incumbent legislators, members
66 of Congress, or known candidates for office.

67 (6) No district shall be drawn to promote, or for the purpose of favoring, the interests of a political
68 party.

69 (7) All district boundaries shall be drawn to promote competitiveness to the extent practicable;
70 however, no district shall be made artificially competitive in violation of the Standards.

71 (8) All district boundaries may be drawn to maintain the core geographical areas of existing
72 districts, to the extent not in conflict with the Standards.

73 (d) The Division of Legislative Services shall provide to the Commission sufficient staff with the
74 requisite expertise and other support as shall be reasonably requested by the Commission. The staff of
75 the Commission shall be under the control of the Chairman of the Commission from the time of the
76 appointment of staff to the dissolution of the Commission. The staff of the Commission shall not be
77 deprived of their employment during this period of time without the express consent of the Commission.

78 (e) The Commission may request the assistance of outside counsel or experts as it shall deem
79 necessary.

80 (1) Outside counsel or experts shall be certified by the Commission as nonpartisan at a public
81 meeting. Each outside counsel or expert shall pledge in writing that he will not, for at least five years
82 from the date of certification by the Commission, run for election in the congressional, Senate, and
83 House of Delegates districts drawn pursuant to this section.

84 (2) No outside counsel or expert shall be appointed by the Commission who is related to any
85 member of the Commission, member of the General Assembly, chairman of either of the political parties
86 receiving the largest and next largest number of votes at the most recent gubernatorial election, or
87 member of the Virginia delegation to the United States Congress as father, mother, son, daughter,
88 brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, grandfather, grandmother,
89 grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law,
90 sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half-brother, or
91 half-sister.

92 (3) Outside counsel or experts shall never have held elected partisan public office or political party
93 office and shall not have received income during the past 12 months from the General Assembly, a
94 committee thereof, the United States Congress, a committee thereof, a political party, a partisan
95 candidate, or a committee controlled by a partisan candidate. No individual who is, or was in the past
96 five years, a registered lobbyist under Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 of the Code
97 of Virginia may serve as outside counsel or expert to the Commission. Restrictions on previous
98 employment by the Commonwealth shall not be construed to prevent an employee of a Virginia
99 institution of higher education from becoming an outside counsel or expert.

100 (f) All deadlines defined in this section, excepting the public meeting of the Commission at which it
101 decides on operating procedures and other rules, may, at the discretion of the Commission, be extended
102 by the number of days after January 1 in the year ending in one before the Commonwealth is provided
103 with the enumeration data and census geography provided by the U.S. Bureau of the Census pursuant to
104 P.L. 94-171. Notwithstanding this subsection, the Commission shall provide the First Official District
105 Plan to the General Assembly no later than May 15 of the year ending in one. If the Commission so
106 decides, it may create and deliver the district plans for the General Assembly and the United States
107 Congress as separate bills.

108 (g) The Commission shall, before December 1 of the year ending in zero, hold a public meeting at
109 which it shall decide upon and cause to be published on paper and on the Internet the operating
110 procedures and other rules under which it will perform its duties. It will also publish a schedule of
111 public meetings to be held during the map creation process. All district maps produced by the
112 Commission shall be in accordance with the Standards set out in this section. The Commission shall
113 keep records of its decisions, directions given to staff, and all other actions and activities as may be
114 required to comply with the federal Voting Rights Act as amended and relevant laws and cases.

115 (h) Upon the receipt of census data, the Commission and its staff shall create initial district maps.
116 No individuals other than the Commission members, its staff, and its certified counsel and experts shall
117 be allowed to participate in the creation of initial maps. Initial maps shall be released to the public via
118 the Internet and other means as determined by the Commission. Initial maps shall be created without
119 the use of any of the following restricted data:

120 (1) Data, hereafter Type 1, regarding election outcomes, voting history, voting trends or patterns, or

the partisan affiliation of voters.

(2) Data, hereafter Type 2, regarding the place of residence of incumbent legislators, members of Congress, or known candidates for said offices.

(3) Data, hereafter Type 3, regarding demographic information, except that provided to the public generally by the U.S. Bureau of the Census or required by the federal Voting Rights Act as amended or other law.

(i) Once an initial map or multiple initial maps have been created, the Commission may access restricted data of Types 1 and 2, only as provided to the Commission by the State Board of Elections on the request of the Commission, for the purpose of ensuring that the initial plans comply fully with the Standards using this data. In no case shall such data be provided by a member or committee of the General Assembly; a chairman of either of the political parties receiving the largest and next largest number of votes at the most recent gubernatorial election; a member of the United States Congress; an official of a political party; a partisan candidate; a current partisan office holder; a member or official of a committee controlled by a partisan candidate, any of their employees, agents, or contractors; or any individual who is, or has in the past five years been, a registered lobbyist under Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 of the Code of Virginia.

(j) When the initial plans have been conformed to the Standards, and no later than April 1 of the year ending in one, the Commission shall hold a public meeting at which it shall certify a single district map plan as the Plan for Public Comment. All relevant details of the Plan for Public Comment and information on the Standards shall be released at the public meeting and on the Internet.

(k) During a period of time of no fewer than 15 days, the Commission shall hold at least five public meetings at which it will receive public comment on the Plan for Public Comment. Each meeting shall be held in a different congressional district. These meetings shall be publicized as the Commission determines, attended by all Commission members, held at times convenient for the public to attend, held for no less than three hours each, and held in geographically disparate areas of the Commonwealth. A record of each meeting shall be made, and the Commission shall cause the comments or a reasonable summary thereof to be published on the Internet and by such other means as the Commission determines.

(l) At the conclusion of the public comment period, the Commission may modify the Plan for Public Comment to account for the comments, and the Modified Plan shall comply with the Standards.

(m) Within 15 days of the completion of the public comment period, the Commission shall hold a public meeting at which it certifies a Nonpartisan Redistricting Commission Plan. It shall cause its Plan to be submitted 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, in the form of a bill for introduction.

(n) The General Assembly shall take up the Commission Plan in the following manner.

(1) The bill to enact the Commission Plan and any other bill to delineate House of Delegates, state Senate, or congressional district boundaries shall be considered by the appropriate standing committee of the House and Senate (hereafter referred to as Committee).

(2) If the Committee votes to report the Commission Plan bill without amendment, it shall report the bill. If the Committee votes to report the Commission Plan bill with amendments or any other related bill with or without amendments, it shall cause its action to be communicated to the Commission. Within seven days the Commission shall make a recommendation to the General Assembly whether or not the General Assembly should agree to the Committee's report. The house receiving the Committee's report shall not vote on the bill reported by the Committee until it has received the recommendation of the Commission.

(3) If the Commission Plan bill is rejected by the Committee or the General Assembly, the Commission may, at the discretion of the Chairman of the Commission, prepare and release a new plan in accordance with the Standards in the form of a bill and present it to the parties listed in subsection m for their consideration and introduction.

(4) If the house of origin passes the Commission Plan bill without amendment, the bill shall be communicated to the second house. If the house of origin passes the Commission Plan with amendments or passes any other related bill with or without amendments, it shall cause its action to be communicated to the Commission. Within seven days the Commission shall make a recommendation to the second house whether or not it should agree to the bill as passed by the first house.

(5) The process outlined in subdivisions (2) and (4) shall apply to consideration in the second house. When any bill is adopted by both houses and transmitted to the Governor, the Commission shall review the bill and make its recommendation to the Governor as to his actions on the bill.

(6) If the Governor proposes amendments to the bill, the Commission shall review his amendments

182 and make recommendations to the General Assembly as to whether or not it should agree to the
183 Governor's amendments at least one day prior to the General Assembly's consideration of the
184 amendments.

185 (7) The Commission, when required to submit a recommendation, shall evaluate the outcome of
186 implementing the bill or amendment and determine if the bill or amendment has been drafted in
187 accordance with the Standards set forth in this section. When reviewing any bill or amendment for
188 recommendation, the Commission may use any data it deems necessary to analyze the measure's
189 outcome. If the Commission decides by a majority vote that the proposed bill or amendment is not in
190 accordance with the Standards, the Commission shall delineate the manner in which the proposed bill
191 or amendment deviates from the Standards and report such to the parties listed in subsection m, the
192 Clerk of the House, and the Clerk of the Senate within the required time. The Commission may, at its
193 discretion, propose changes to the measure in question that would conform the measure to the
194 Standards. Meetings at which the Commission votes to make a recommendation shall be public and
195 allow for public participation.

196 (o) On passage of a bill, and its enactment into law, to define the election districts for the General
197 Assembly and the United States House of Representatives, the Commission shall cooperate with and
198 assist the Attorney General or other relevant authority to the extent necessary to complete the
199 submission of the bill pursuant to § 5 of the Voting Rights Act.

200 (p) On notification of clearance as required by the Voting Rights Act, the Commission shall be
201 dissolved. The Commission shall be reconstituted with the identical membership in any case where the
202 federal government or a court determines that modifications to the plan are required. The reconstituted
203 Commission shall follow, as closely as practicable, the process set out in this section to meet the
204 requirements of the government or court.