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## SENATE BILL NO. 358

Offered January 8, 2020

Prefiled January 6, 2020

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.*

Patron—Cosgrove

Referred to Committee on Privileges and Elections

**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 2011 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*

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59 in the Senate of Virginia and shall be appointed by the leader of that political party.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

119 If the Commission submits a plan for districts within fourteen days following its initial failure to  
120 submit a plan, the General Assembly shall take a vote on the bill embodying such plan within seven

121 days of its receipt. If the General Assembly fails to adopt such bill by this deadline, the districts shall be  
122 established by the Supreme Court of Virginia.

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

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

129 § 2. The ballot shall contain the following question:

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

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

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

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

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

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