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SENATE JOINT RESOLUTION NO. 18
FLOOR AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by Delegate Simon
on March 5, 2020)

(Patrons Prior to Substitute—Senators Barker, Cosgrove [SJR 12], and Hanger [SJR 70])

Proposing an amendment to Section 6 of Article II of the Constitution of Virginia and proposing an amendment to the Constitution of Virginia by adding in Article II a section numbered 6-A, relating to apportionment; Virginia Redistricting Commission.

WHEREAS, proposed amendments to the Constitution of Virginia, hereinafter set forth, were agreed to by a majority of the members elected to each of the two houses of the General Assembly at the regular session of 2019 and referred to this, the next regular session held after the 2019 general election of members of the House of Delegates, as required by the Constitution of Virginia; now, therefore, be it

RESOLVED by the Senate, the House of Delegates concurring, That the following amendments to the Constitution of Virginia be, and the same hereby are, proposed 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 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.

(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 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.

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.

(b) Every electoral district shall be constituted so as to adhere to the following criteria:

(1) Districts shall be so constituted as to give, as nearly as is practicable, representation in proportion to the population of the district. A deviation of no more than five percent shall be permitted for state legislative districts.

(2) Districts shall be drawn in accordance with the requirements of this Constitution and the Constitution of the United States, including the Equal Protection Clause of the Fourteenth Amendment; federal and state laws, including the federal Voting Rights Act of 1965, as amended; and relevant judicial decisions relating to racial and ethnic fairness.

(3) No district shall be drawn that results in a denial or abridgement of the right of any citizen to vote on account of race or color or membership in a language minority group. No district shall be drawn that results in a denial or abridgement of the rights of any racial or language minority group to participate in the political process and to elect representatives of their choice. A violation of this subdivision is established if, on the basis of the totality of the circumstances, it is shown that districts were drawn in such a way that members of a racial or language minority group are dispersed into districts in which they constitute an ineffective minority of voters or are concentrated into districts where they constitute an excessive majority. The extent to which members of a racial or language minority group have been elected to office in the state or the political subdivision is one circumstance that may be considered. Nothing in this subdivision shall establish a right to have members of a racial or language minority group elected in numbers equal to their proportion in the population.

(4) Districts shall be drawn to give racial and language minorities an equal opportunity to participate in the political process and shall not dilute or diminish their ability to elect candidates of

60 choice either alone or in coalition with others.

61 (5) Districts shall be drawn to preserve communities of interest. For purposes of this subdivision, a
62 "community of interest" means a neighborhood or any geographically defined group of people living in
63 an area who share similar social, cultural, and economic interests. A "community of interest" does not
64 include a community based upon political affiliation or relationship with a political party, elected
65 official, or candidate for office.

66 (6) Districts shall be composed of contiguous territory, with no district contiguous only by
67 connections by water running downstream or upriver, and political boundaries may be considered.

68 (7) Districts shall be composed of compact territory and shall be drawn employing one or more
69 standard numerical measures of individual and average district compactness, both statewide and district
70 by district.

71 (8) A map of districts shall not, when considered on a statewide basis, unduly favor or disfavor any
72 political party.

73 Section 6-A. Virginia Redistricting Commission.

74 (a) The Virginia Redistricting Commission (the Commission) is hereby created for the purpose of
75 establishing legislative and congressional districts pursuant to Article II, Section 6 of this Constitution.
76 The General Assembly shall provide by general law for the creation and operation of the Commission in
77 accordance with this section.

78 (b) The Commission shall consist of eleven commissioners who shall be registered voters of the
79 Commonwealth and who are, as a whole, representative of the racial, gender, political, and geographic
80 diversity of the Commonwealth. Commissioners shall meet the criteria and eligibility requirements
81 established by the General Assembly by general law. Any person who is, or has been, a member or
82 employee of the Congress of the United States or of the General Assembly shall not be eligible to serve
83 as a commissioner.

84 The eleven commissioners shall be selected in the year ending in zero and shall serve until their
85 successors are appointed. The General Assembly shall provide by general law for the selection of
86 commissioners. The selection process shall be transparent and shall be conducted by the Secretary of
87 the Commonwealth. The process shall allow any interested citizen of the Commonwealth to apply for
88 service and shall be open for a sufficient period of time to allow them to do so. Such process shall
89 ensure that the application for service is accessible and available to the public.

90 (c) The Commission shall establish districts for the United States House of Representatives and the
91 Senate and the House of Delegates of the General Assembly in the year ending in one. Final approval
92 of any plan for districts shall require an affirmative vote of at least nine of the eleven commissioners.
93 Abstentions shall not be permitted on a vote for final approval of a redistricting plan.

94 Districts for the Senate and the House of Delegates of the General Assembly shall be established and
95 certified to the Secretary of the Commonwealth and the State Board of Elections no later than 60 days
96 following the receipt of census data. Districts for the United States House of Representatives shall be
97 established and certified to the Secretary of the Commonwealth and the State Board of Elections no
98 later than 120 days following the receipt of census data.

99 If the Commission is unable to certify the establishment of districts by the deadline prescribed herein
100 due to the inability of a plan to receive the minimum number of votes required, the two plans for such
101 districts receiving the highest number of votes, but not fewer than six votes, shall be submitted to the
102 General Assembly, which shall vote to adopt one of the two plans. No amendments shall be permitted.

103 (d) Prior to beginning its work to draw or establish districts for the United States House of
104 Representatives and the Senate and the House of Delegates of the General Assembly, the Commission
105 shall hold a series of public hearings throughout the Commonwealth to receive and consider comments
106 from the public, including information to assist in the identification of communities of interest.

107 Prior to approving any plan for the establishment of districts, the Commission shall make the
108 proposed plans available to the public for at least two weeks, during which time public comment shall
109 be accepted. Any public comment received shall be reviewed and considered by the Commission before
110 voting to approve a plan.

111 (e) All meetings and hearings held by the Commission shall be public. The meetings and hearings
112 shall be adequately advertised and planned to ensure that the meeting or hearing is accessible and that
113 the public is able to attend and participate fully. Meetings and hearings shall be advertised in multiple
114 languages as practicable and appropriate. Transcripts and archived videos of all meetings and hearings
115 shall be made available to the public.

116 (f) Districts established pursuant to this section shall constitute the official legislative and
117 congressional districts until the next decennial reapportionment or as may be required by a court.
118 Technical adjustments to the boundaries of any legislative or congressional district may be made by the
119 Commission in the year ending in two, solely for the purpose of causing such district boundaries to
120 coincide with the boundaries of voting precincts established in the counties and cities. Such adjustments
121 shall change the district boundaries only to the extent necessary to accomplish this purpose, and any

change made shall be consistent with the criteria prescribed by Section 6 of Article II of this Constitution. Any technical adjustment shall require a unanimous affirmative vote by the full membership of the Commission.

(g) If a plan certified by the Commission is declared unlawful by a court of appropriate jurisdiction, the Commission shall reorganize and approve another district plan in the same manner as herein required. Such plan shall be established and certified within the period of time prescribed by the court or within such shorter period as may be necessary to ensure that the new plan is effective for the next succeeding election for the members elected from such districts.

(h) 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.

(i) The General Assembly shall appropriate the funds necessary for the efficient operation of the Commission. The Commission shall have the authority to employ staff and access the resources sufficient for its operation.