

SENATE BILL 740

G1, P5

CONSTITUTIONAL AMENDMENT

4lr0676
CF 4lr2381

By: **Senators Kittleman, Brinkley, Brochin, Colburn, Getty, Hershey, Jacobs, Jennings, Kelley, Reilly, and Simonaire**

Introduced and read first time: January 31, 2014

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

AN ACT concerning

Election Law – General Assembly and Congressional Legislative Districting and Apportionment Commission

FOR the purpose of proposing an amendment to the Maryland Constitution to alter the process of General Assembly and congressional legislative districting and apportionment in the State by establishing a General Assembly and Congressional Legislative Districting and Apportionment Commission; providing for the membership, qualifications, chair, and duties of the Commission; requiring the Commission to establish rules and procedures; making Commission meetings and records subject to State law governing open meetings and public records; requiring the Commission to file a final report within a certain period of time with the Secretary of State; providing for the removal of a Commission member under certain circumstances; specifying a process for filling a vacancy on the Commission; providing for the dissolution of the Commission; requiring the Attorney General to petition the Court of Appeals to review the Commission's final report and make certain determinations; requiring the Commission to prepare an amended plan under certain circumstances; requiring the Court of Appeals to take certain actions with respect to the Commission's report under certain circumstances; specifying that the Commission shall have staff and other resources as provided in the State budget; and submitting this amendment to the qualified voters of the State for their adoption or rejection.

BY proposing a repeal of the Maryland Constitution
Article III – Legislative Department
Section 5

BY proposing an addition to the Maryland Constitution
Article III – Legislative Department
Section 5

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, (Three-fifths of all the members elected to each of the two Houses concurring), That it be proposed that the Maryland Constitution read as follows:

Article III – Legislative Department

[5.

Following each decennial census of the United States and after public hearings, the Governor shall prepare a plan setting forth the boundaries of the legislative districts for electing of the members of the Senate and the House of Delegates.

The Governor shall present the plan to the President of the Senate and Speaker of the House of Delegates who shall introduce the Governor's plan as a joint resolution to the General Assembly, not later than the first day of its regular session in the second year following every census, and the Governor may call a special session for the presentation of his plan prior to the regular session. The plan shall conform to Sections 2, 3 and 4 of this Article. Following each decennial census the General Assembly may by joint resolution adopt a plan setting forth the boundaries of the legislative districts for the election of members of the Senate and the House of Delegates, which plan shall conform to Sections 2, 3 and 4 of this Article. If a plan has been adopted by the General Assembly by the 45th day after the opening of the regular session of the General Assembly in the second year following every census, the plan adopted by the General Assembly shall become law. If no plan has been adopted by the General Assembly for these purposes by the 45th day after the opening of the regular session of the General Assembly in the second year following every census, the Governor's plan presented to the General Assembly shall become law.

Upon petition of any registered voter, the Court of Appeals shall have original jurisdiction to review the legislative districting of the State and may grant appropriate relief, if it finds that the districting of the State is not consistent with requirements of either the Constitution of the United States of America, or the Constitution of Maryland.]

5.

(A) (1) IN THE YEAR FOLLOWING EACH DECENNIAL CENSUS OF THE UNITED STATES OR WHEN REQUIRED BY THE UNITED STATES OR BY COURT ORDER, A GENERAL ASSEMBLY AND CONGRESSIONAL LEGISLATIVE DISTRICTING AND APPORTIONMENT COMMISSION SHALL BE APPOINTED:

(I) TO DIVIDE THE STATE INTO CONSECUTIVELY NUMBERED GENERAL ASSEMBLY LEGISLATIVE DISTRICTS THAT CONFORM TO SECTIONS 2, 3, AND 4 OF THIS ARTICLE; AND

(II) TO DIVIDE THE STATE TO CREATE AS MANY CONGRESSIONAL LEGISLATIVE DISTRICTS AS THERE ARE REPRESENTATIVES IN CONGRESS APPORTIONED TO THE STATE.

(2) (I) GENERAL ASSEMBLY AND CONGRESSIONAL LEGISLATIVE DISTRICTS SHALL BE ESTABLISHED IN ACCORDANCE WITH THE CONSTITUTION OF THE UNITED STATES OF AMERICA AND THE MARYLAND CONSTITUTION.

(II) GENERAL ASSEMBLY LEGISLATIVE DISTRICTS SHALL BE AS NEARLY EQUAL IN POPULATION AS PRACTICAL, BUT MAY NOT DEVIATE MORE THAN 1% IN POPULATION BETWEEN DISTRICTS.

(B) (1) THE GENERAL ASSEMBLY AND CONGRESSIONAL LEGISLATIVE DISTRICTING AND APPORTIONMENT COMMISSION SHALL BE COMPOSED OF SEVEN MEMBERS.

(2) A MEMBER OF THE COMMISSION:

(I) SHALL BE A REGISTERED VOTER IN THE STATE FOR AT LEAST 3 YEARS PRECEDING APPOINTMENT TO THE COMMISSION;

(II) SHALL AFFIRM THAT THE MEMBER IS COMMITTED TO APPLYING THE PROVISIONS OF THIS SECTION IN AN HONEST, INDEPENDENT, AND IMPARTIAL MANNER AND TO UPHOLDING PUBLIC CONFIDENCE IN THE INTEGRITY OF THE REDISTRICTING PROCESS; AND

(III) DURING THE 3 YEARS IMMEDIATELY PRECEDING APPOINTMENT TO THE COMMISSION:

1. MAY NOT HAVE BEEN APPOINTED TO, BEEN ELECTED TO, OR BEEN A CANDIDATE FOR ANY OTHER PUBLIC OFFICE OR HAVE SERVED AS AN OFFICER IN A POLITICAL PARTY; AND

2. MAY NOT HAVE SERVED AS A REGISTERED LOBBYIST OR AS AN OFFICER OF A CAMPAIGN FINANCE ENTITY.

(C) (1) (I) ON OR BEFORE JANUARY 1 IN THE YEAR FOLLOWING A DECENNIAL CENSUS, THE COURT OF APPEALS SHALL NOMINATE A POOL OF 30 CANDIDATES WHO ARE WILLING TO SERVE AND WHO MEET THE QUALIFICATIONS FOR SERVICE ON THE COMMISSION.

(II) THE POOL OF CANDIDATES SHALL CONSIST OF:

1. TEN CANDIDATES FROM THE MAJORITY PARTY;
2. TEN CANDIDATES FROM THE PRINCIPAL MINORITY PARTY; AND
3. TEN CANDIDATES WHO ARE NOT REGISTERED WITH ANY POLITICAL PARTY OR WHO ARE FROM A POLITICAL PARTY OTHER THAN THE MAJORITY PARTY OR THE PRINCIPAL MINORITY PARTY.

(2) (I) ON OR BEFORE FEBRUARY 1 IN THE YEAR FOLLOWING A DECENNIAL CENSUS, OR WITHIN 15 DAYS AFTER GENERAL ASSEMBLY LEGISLATIVE APPORTIONMENT OR CONGRESSIONAL DISTRICTING IS REQUIRED BY LAW OR BY COURT ORDER, FROM THE POOL OF CANDIDATES ESTABLISHED BY THE COURT OF APPEALS:

1. THE PRESIDENT OF THE SENATE SHALL MAKE ONE APPOINTMENT;
2. THE MINORITY LEADER OF THE SENATE SHALL MAKE ONE APPOINTMENT;
3. THE SPEAKER OF THE HOUSE OF DELEGATES SHALL MAKE ONE APPOINTMENT; AND
4. THE MINORITY LEADER OF THE HOUSE OF DELEGATES SHALL MAKE ONE APPOINTMENT.

(II) FOLLOWING THE APPOINTMENT OF THE FOUR MEMBERS SPECIFIED UNDER SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE SECRETARY OF STATE SHALL CONVENE A MEETING OF THOSE FOUR APPOINTEES WHO THEN, BY MAJORITY VOTE, SHALL SELECT FROM THE POOL OF CANDIDATES ESTABLISHED BY THE COURT OF APPEALS THREE ADDITIONAL MEMBERS OF THE COMMISSION.

(III) THE THREE ADDITIONAL MEMBERS MAY NOT RESULT IN THE COMMISSION HAVING MORE THAN TWO MEMBERS WHO ARE AFFILIATED WITH THE SAME POLITICAL PARTY OR WHO ARE NOT AFFILIATED WITH ANY POLITICAL PARTY.

(IV) ONCE IT IS FULLY CONSTITUTED, THE COMMISSION, BY MAJORITY VOTE, SHALL ELECT ITS CHAIR FROM AMONG ITS MEMBERS.

(D) (1) SUBJECT TO PARAGRAPHS (2) AND (3) OF THIS SUBSECTION, THE COMMISSION SHALL ESTABLISH ITS OWN RULES AND PROCEDURES TO GOVERN ITS OPERATIONS.

(2) ANY OFFICIAL ACT OF THE COMMISSION SHALL REQUIRE AT LEAST FOUR AFFIRMATIVE VOTES.

(3) ANY MEETING AND ANY RECORD OF THE COMMISSION SHALL BE SUBJECT TO APPLICABLE STATE LAW GOVERNING OPEN MEETINGS AND ACCESS TO PUBLIC INFORMATION.

(E) ON NOTICE AND AFTER AN OPPORTUNITY FOR A HEARING, A MEMBER OF THE COMMISSION MAY BE REMOVED BY THE GOVERNOR, ON ADVICE AND CONSENT OF TWO-THIRDS OF THE SENATE, FOR SUBSTANTIAL NEGLIGENCE OF DUTY, GROSS MISCONDUCT, OR INABILITY TO DISCHARGE THE DUTIES OF THE OFFICE.

(F) IF FOR ANY REASON A MEMBER DOES NOT COMPLETE THE TERM OF OFFICE, WITHIN 30 DAYS AFTER THE VACANCY, THE COURT OF APPEALS SHALL NOMINATE A POOL OF THREE CANDIDATES FROM WHICH THE APPOINTING AUTHORITY WHO MADE THE ORIGINAL APPOINTMENT SHALL SELECT A NEW MEMBER TO FILL THE VACANCY.

(G) (1) WITHIN 180 DAYS AFTER THE COMMISSION IS CERTIFIED TO THE SECRETARY OF STATE, THE COMMISSION SHALL FILE WITH THE SECRETARY OF STATE ITS FINAL REPORT, INCLUDING ALL REQUIRED REDISTRICTING PLANS.

(2) WITHIN 15 DAYS AFTER THE FINAL REPORT OF THE COMMISSION IS FILED WITH THE SECRETARY OF STATE, THE ATTORNEY GENERAL SHALL PETITION THE COURT OF APPEALS TO REVIEW AND DETERMINE THE VALIDITY OF THE APPORTIONMENT PLANS.

(3) AFTER THE COURT OF APPEALS DETERMINES THAT THE REQUIRED PLANS ARE VALID, THE COMMISSION SHALL BE DISSOLVED.

(4) IF THE COMMISSION DOES NOT FILE ITS FINAL REPORT IN A TIMELY MANNER, INCLUDING ALL REQUIRED PLANS, WITH THE SECRETARY OF STATE:

(I) THE COMMISSION SHALL BE DISSOLVED;

(II) THE ATTORNEY GENERAL SHALL, WITHIN 5 DAYS, PETITION THE COURT OF APPEALS TO MAKE THE APPORTIONMENT; AND

(III) NO LATER THAN THE 60TH DAY AFTER THE FILING OF THE PETITION, THE COURT OF APPEALS SHALL FILE WITH THE SECRETARY OF STATE AN ORDER MAKING THE APPORTIONMENT.

(H) (1) A JUDGMENT OF THE COURT OF APPEALS DETERMINING THE APPORTIONMENT TO BE VALID OR ORDERING JUDICIAL APPORTIONMENT SHALL BE BINDING ON ALL CITIZENS OF THE STATE.

(2) IF THE COURT OF APPEALS DETERMINES THAT THE APPORTIONMENT MADE BY THE COMMISSION IS INVALID, THE COMMISSION, WITHIN 20 DAYS AFTER THE RULING, SHALL ADOPT AND FILE WITH THE SECRETARY OF STATE AN AMENDED PLAN THAT CONFORMS TO THE JUDGMENT OF THE COURT OF APPEALS.

(3) (I) WITHIN 5 DAYS AFTER THE FILING OF AN AMENDED PLAN, THE ATTORNEY GENERAL SHALL PETITION THE COURT OF APPEALS TO DETERMINE THE VALIDITY OF THE AMENDED PLAN.

(II) IF THE COMMISSION HAS FAILED TO FILE AN AMENDED PLAN, THE ATTORNEY GENERAL SHALL REPORT THAT FACT TO THE COURT OF APPEALS.

(4) IF THE COMMISSION FAILS TO FILE AN AMENDED PLAN OR IF THE COURT OF APPEALS DETERMINES THAT THE AMENDED PLAN IS INVALID:

(I) THE COMMISSION SHALL BE DISSOLVED; AND

(II) THE COURT OF APPEALS SHALL, NOT LATER THAN 60 DAYS AFTER RECEIVING THE PETITION OF THE ATTORNEY GENERAL, FILE WITH THE SECRETARY OF STATE AN ORDER MAKING THE APPORTIONMENT.

(I) THE COMMISSION SHALL HAVE STAFF AND OTHER RESOURCES AS PROVIDED IN THE STATE BUDGET.

SECTION 2. AND BE IT FURTHER ENACTED, That the General Assembly determines that the amendment to the Maryland Constitution proposed by this Act affects multiple jurisdictions and that the provisions of Article XIV, § 1 of the Maryland Constitution concerning local approval of constitutional amendments do not apply.

SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section proposed as an amendment to the Maryland Constitution shall be submitted to the qualified voters of the State at the next general election to be held in November 2014 for their adoption or rejection pursuant to Article XIV of the Maryland Constitution. At that general election, the vote on this proposed amendment to the Constitution shall be by ballot, and upon each ballot there shall be printed the words "For the Constitutional Amendment" and "Against the Constitutional Amendment," as now provided by law. Immediately after the election, all returns shall be made to the Governor of the vote for and against the proposed amendment, as directed by Article XIV of the Maryland Constitution, and further proceedings had in accordance with Article XIV.