

SENATE BILL 531
CONSTITUTIONAL AMENDMENT

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P1

2002 Regular Session
2r1996

By: **Senator Stoltzfus**

Introduced and read first time: February 1, 2002

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Legislative Districting and Apportionment Commission**

3 FOR the purpose of proposing an amendment to the Constitution of Maryland to alter
4 the process of legislative districting and apportionment in the State by
5 establishing a Legislative Districting and Apportionment Commission;
6 providing for the membership, qualifications, chairman, and duties of the
7 Commission; requiring the Commission to establish rules and procedures
8 subject to the Maryland Open Meetings Act and the Maryland Public
9 Information Act; requiring the Commission to file a final report within a certain
10 period of time to the Secretary of State; requiring the Court of Appeals to review
11 the Commission's final report and make certain determinations; requiring the
12 Court of Appeals and the Commission to take certain actions with respect to the
13 Commission's report under certain circumstances; and submitting this
14 amendment to the qualified voters of the State of Maryland for their adoption or
15 rejection.

16 BY proposing a repeal of the Constitution of Maryland
17 Article III - Legislative Department
18 Section 5

19 BY proposing an addition to the Constitution of Maryland
20 Article III - Legislative Department
21 Section 5

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

25 **Article III - Legislative Department**

26 [5.

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

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

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

22 5.

23 (A) (1) IN THE YEAR FOLLOWING EACH DECENNIAL CENSUS OF THE
24 UNITED STATES OR WHEN REQUIRED BY THE UNITED STATES OR BY COURT ORDER,
25 A LEGISLATIVE DISTRICTING AND APPORTIONMENT COMMISSION SHALL BE
26 APPOINTED TO DIVIDE THE STATE INTO CONSECUTIVELY NUMBERED LEGISLATIVE
27 DISTRICTS THAT CONFORM TO SECTIONS 2, 3, AND 4 OF THIS ARTICLE AND TO DIVIDE
28 THE STATE TO CREATE AS MANY CONGRESSIONAL DISTRICTS AS THERE ARE
29 REPRESENTATIVES IN CONGRESS APPORTIONED TO THIS STATE. DISTRICTS SHALL
30 BE ESTABLISHED IN ACCORDANCE WITH THE CONSTITUTION OF THE UNITED
31 STATES OF AMERICA AND OF THE CONSTITUTION OF MARYLAND AND SHALL BE AS
32 NEARLY EQUAL IN POPULATION AS PRACTICAL, BUT WHICH SHALL NOT DEVIATE
33 MORE THAN 1% IN POPULATION BETWEEN DISTRICTS.

34 (2) (I) ON OR BEFORE JUNE 1 IN THE YEAR FOLLOWING EACH
35 DECENNIAL CENSUS, OR WITHIN 15 DAYS AFTER LEGISLATIVE APPORTIONMENT OR
36 CONGRESSIONAL DISTRICTING IS REQUIRED BY LAW OR BY COURT ORDER, 16
37 COMMISSIONERS SHALL BE CERTIFIED BY THE RESPECTIVE APPOINTING
38 AUTHORITIES TO THE SECRETARY OF STATE.

39 (II) THE PRESIDENT OF THE SENATE AND THE SPEAKER OF THE
40 HOUSE OF DELEGATES SHALL SELECT AND CERTIFY FOUR COMMISSIONERS.

41 (III) THE MINORITY PARTY LEADER IN THE SENATE AND THE
42 MINORITY PARTY LEADER IN THE HOUSE OF DELEGATES SHALL EACH SELECT AND
43 CERTIFY FOUR COMMISSIONERS.

1 (3) (I) WITHIN 21 DAYS AFTER THE 16 MEMBERS ARE CERTIFIED TO
2 THE SECRETARY OF STATE, THE COMMISSIONERS BY AFFIRMATIVE VOTE OF 11
3 MEMBERS SHALL ELECT THE 17TH MEMBER, WHO SHALL BE A REGISTERED VOTER
4 WHO FOR THE PREVIOUS TWO YEARS WAS NOT REGISTERED AS AN ELECTOR OF ANY
5 POLITICAL PARTY HAVING A MEMBER HOLDING OFFICE IN THE APPOINTING
6 LEGISLATURE.

7 (II) IF NO SELECTION IS MADE, THE CHIEF JUSTICE OF THE COURT
8 OF APPEALS SHALL SELECT THE 17TH MEMBER FROM A LIST OF FOUR PERSONS WHO
9 SHALL BE REGISTERED VOTERS AND WHO FOR THE PREVIOUS TWO YEARS WERE
10 NOT REGISTERED AS ELECTORS OF ANY POLITICAL PARTY HAVING A MEMBER
11 HOLDING OFFICE IN THE APPOINTING LEGISLATURE.

12 (III) THE LIST SHALL BE COMPRISED OF TWO PERSONS SELECTED
13 BY THE SPEAKER'S AND PRESIDENT'S COMMISSIONERS, AND TWO BY THE MINORITY
14 PARTIES' COMMISSIONERS.

15 (4) NO COMMISSIONER SHALL HAVE SERVED DURING THE TWO YEARS
16 PRIOR TO CERTIFICATION ON THE COMMISSION AS AN ELECTED STATE OFFICIAL,
17 MEMBER OF CONGRESS, PARTY OFFICER OR EMPLOYEE, PAID REGISTERED
18 LOBBYIST, OR LEGISLATIVE OR CONGRESSIONAL EMPLOYEE, AND NO
19 COMMISSIONER SHALL BE A RELATIVE AS DEFINED BY THE LAWS OF MARYLAND OR
20 AN EMPLOYEE OF THE GENERAL ASSEMBLY.

21 (5) AS A CONDITION OF APPOINTMENT, EACH COMMISSIONER SHALL
22 TAKE AN OATH AFFIRMING THAT THE COMMISSIONER WILL NOT RECEIVE
23 COMPENSATION AS A PAID REGISTERED LOBBYIST OR SEEK ELECTED OFFICE IN ANY
24 LEGISLATIVE OR CONGRESSIONAL DISTRICT FOR A PERIOD OF FOUR YEARS AFTER
25 CONCLUDING SERVICE AS A COMMISSIONER.

26 (B) THE COMMISSION SHALL ELECT ONE OF ITS MEMBERS TO SERVE AS
27 CHAIRMAN OF THE COMMISSION AND SHALL ESTABLISH ITS OWN RULES AND
28 PROCEDURES. ALL COMMISSION ACTIONS SHALL REQUIRE 11 AFFIRMATIVE VOTES.
29 MEETINGS AND RECORDS OF THE COMMISSION SHALL BE SUBJECT TO THE
30 MARYLAND OPEN MEETINGS ACT AND THE MARYLAND PUBLIC INFORMATION ACT
31 AND PUBLIC NOTICE OF ALL MEETINGS SHALL BE GIVEN.

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

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

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

1 (4) IF THE COMMISSION DOES NOT FILE ITS FINAL REPORT IN A TIMELY
2 MANNER, INCLUDING ALL REQUIRED PLANS WITH THE SECRETARY OF STATE, THE
3 COMMISSION SHALL BE DISSOLVED, AND THE ATTORNEY GENERAL SHALL, WITHIN 5
4 DAYS, PETITION THE COURT OF APPEALS TO MAKE THE APPORTIONMENT. NO LATER
5 THAN THE 60TH DAY AFTER THE FILING OF THE PETITION, THE COURT OF APPEALS
6 SHALL FILE WITH THE SECRETARY OF STATE AN ORDER MAKING THE
7 APPORTIONMENT.

8 (D) (1) A JUDGMENT OF THE COURT OF APPEALS DETERMINING THE
9 APPORTIONMENT TO BE VALID OR ORDERING JUDICIAL APPORTIONMENT SHALL BE
10 BINDING ON ALL CITIZENS OF THE STATE. IF THE COURT OF APPEALS DETERMINES
11 THAT THE APPORTIONMENT MADE BY THE COMMISSION IS INVALID, THE
12 COMMISSION, WITHIN 20 DAYS AFTER THE RULING, SHALL ADOPT AND FILE WITH
13 THE SECRETARY OF STATE AN AMENDED PLAN THAT CONFORMS TO THE JUDGMENT
14 OF THE COURT OF APPEALS.

15 (2) WITHIN FIVE DAYS AFTER THE FILING OF AN AMENDED PLAN, THE
16 ATTORNEY GENERAL SHALL PETITION THE COURT OF APPEALS TO DETERMINE THE
17 VALIDITY OF THE AMENDED PLAN, OR IF THE COMMISSION HAS FAILED TO FILE AN
18 AMENDED PLAN, REPORT THAT FACT TO THE COURT OF APPEALS.

19 (3) IF THE COMMISSION FAILS TO FILE AN AMENDED PLAN OR IF THE
20 COURT OF APPEALS DETERMINES THE AMENDED PLAN IS INVALID, THE
21 COMMISSION SHALL BE DISSOLVED, AND THE COURT OF APPEALS SHALL, NOT LATER
22 THAN 60 DAYS AFTER RECEIVING THE PETITION OF THE ATTORNEY GENERAL, FILE
23 WITH THE SECRETARY OF STATE AN ORDER MAKING THE APPORTIONMENT.

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

28 SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section
29 proposed as an amendment to the Constitution of Maryland shall be submitted to the
30 legal and qualified voters of this State at the next general election to be held in
31 November, 2002 for their adoption or rejection in pursuance of directions contained in
32 Article XIV of the Constitution of this State. At that general election, the vote on this
33 proposed amendment to the Constitution shall be by ballot, and upon each ballot
34 there shall be printed the words "For the Constitutional Amendments" and "Against
35 the Constitutional Amendments," as now provided by law. Immediately after the
36 election, all returns shall be made to the Governor of the vote for and against the
37 proposed amendment, as directed by Article XIV of the Constitution, and further
38 proceedings had in accordance with Article XIV.