

SENATE BILL 204

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CF HB 182

By: **Senators Elfreh and Lam**

Introduced and read first time: January 16, 2020

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Potomac Compact for Fair Representation**

3 FOR the purpose of establishing the Potomac Compact for Fair Representation; providing
4 that a compacting state is not required to comply with the Compact under certain
5 circumstances; establishing the Congressional Districting Commission; requiring
6 the Executive Director of the Department of Legislative Services to determine the
7 size and composition of the Commission and, on or before a certain date in certain
8 years, select the members of the Commission; requiring that the members of the
9 Commission include certain professionals; requiring the Executive Director, subject
10 to a certain limitation, to determine the education and experience that an individual
11 is required to have for a certain purpose; requiring that the members of the
12 Commission be full-time employees of the Department or, under certain
13 circumstances, certain contractual employees; providing for the terms of the
14 members of the Commission; prohibiting members of the Commission from being
15 certain officials or a candidate for elected office while serving on the Commission;
16 providing that the members of the Commission may be removed only by
17 impeachment under a certain provision of law for certain reasons; prohibiting the
18 Department from terminating the employment of certain members of the
19 Commission except under certain circumstances; requiring congressional districts to
20 conform to certain standards and that due regard be given to certain boundaries;
21 requiring the Commission to prepare a certain congressional districting plan
22 following a certain census and after public hearings; requiring the Commission to
23 present each plan to the President of the Senate and the Speaker of the House of
24 Delegates; requiring the President and the Speaker to introduce the plan as a joint
25 resolution by a certain day of a certain General Assembly session; authorizing the
26 Governor to call a special session for certain purposes; prohibiting the plan from
27 being amended; prohibiting a member of the General Assembly from introducing a
28 certain joint resolution or bill; providing that the plan becomes law on adoption by
29 the General Assembly by a certain vote; requiring that an alternate congressional
30 districting plan be prepared and submitted under certain circumstances; requiring
31 the Court of Appeals to prepare a congressional districting plan under certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



circumstances; providing that the Court of Appeals has original jurisdiction to review certain districting of the State under certain circumstances; authorizing the Court of Appeals to grant certain relief under certain circumstances; providing for the application of certain provisions of law and of this Act; defining certain terms; making this Act subject to a certain contingency; and generally relating to the Potomac Compact for Fair Representation.

BY adding to

Article – Election Law

Section 8–6A–01 through 8–6A–05 to be under the new subtitle “Subtitle 6A. The Potomac Compact for Fair Representation”

Annotated Code of Maryland

(2017 Replacement Volume and 2019 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Election Law

SUBTITLE 6A. THE POTOMAC COMPACT FOR FAIR REPRESENTATION.

8–6A–01.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) “COMMISSION” MEANS THE CONGRESSIONAL DISTRICTING COMMISSION ESTABLISHED BY THE COMPACTING STATES UNDER § 8–6A–03 OF THIS SUBTITLE.

(C) “COMPACT” MEANS THE POTOMAC COMPACT FOR FAIR REPRESENTATION.

(D) “COMPACTING STATE” MEANS THE COMMONWEALTH OF VIRGINIA AND THE STATE OF MARYLAND.

(E) “DEPARTMENT OF LEGISLATIVE SERVICES” MEANS THE NONPARTISAN STATE AGENCY IN MARYLAND.

(F) “NONPARTISAN STATE AGENCY” MEANS A STATE AGENCY DESIGNATED BY A COMPACTING STATE THAT PROVIDES NONPARTISAN RESEARCH OR ANALYSIS TO THE STATE LEGISLATURE OF THE DESIGNATING COMPACTING STATE.

(G) “PLAN” MEANS THE CONGRESSIONAL DISTRICTING PLAN PREPARED FOR A COMPACTING STATE BY THE COMMISSION UNDER § 8–6A–05(A) OF THIS

1 SUBTITLE.

2 8-6A-02.

3 (A) THERE IS A POTOMAC COMPACT FOR FAIR REPRESENTATION.

4 (B) THIS SUBTITLE APPLIES ONLY IF THE DEPARTMENT OF LEGISLATIVE
5 SERVICES DETERMINES AFTER CONSULTATION WITH AND ON THE ADVICE OF THE
6 ATTORNEY GENERAL THAT VIRGINIA HAS ADOPTED A CONGRESSIONAL
7 DISTRICTING PROCESS THAT IS SUBSTANTIALLY SIMILAR TO THE PROCESS IN THIS
8 SUBTITLE.

9 (C) A PROCESS SHALL BE CONSIDERED SUBSTANTIALLY SIMILAR FOR THE
10 PURPOSES OF SUBSECTION (B) OF THIS SECTION ONLY IF:

11 (1) A CONGRESSIONAL DISTRICTING PLAN IS INITIALLY DEVELOPED
12 AND PROPOSED BY A COMMISSION COMPOSED OF INDIVIDUALS WHO ARE:

13 (I) EMPLOYEES OF OR CONTRACTED BY A NONPARTISAN STATE
14 AGENCY THAT PROVIDES NONPARTISAN RESEARCH OR ANALYSIS; AND

15 (II) NOT SELECTED BY THE GOVERNOR OF THE STATE,
16 MEMBERS OF THE STATE LEGISLATURE, OR AN INDIVIDUAL SELECTED BY THE
17 GOVERNOR OF THE STATE OR THE STATE LEGISLATURE;

18 (2) THE STATE LEGISLATURE IS ALLOWED TO VOTE ON THE
19 CONGRESSIONAL DISTRICTING PLAN PROPOSED BY THE COMMISSION BUT IS
20 PROHIBITED FROM ALTERING THE PLAN; AND

21 (3) A CONGRESSIONAL DISTRICTING PLAN PREPARED BY THE
22 COMPACTING STATE'S HIGHEST COURT BECOMES LAW IF THE STATE LEGISLATURE
23 FAILS TO ADOPT THE CONGRESSIONAL DISTRICTING PLAN PROPOSED BY THE
24 COMMISSION.

25 (D) A COMPACTING STATE IS NOT REQUIRED TO COMPLY WITH THIS
26 COMPACT IF:

27 (1) A COMMISSION FAILS TO ADOPT A CONGRESSIONAL DISTRICTING
28 PLAN FOR A COMPACTING STATE; OR

29 (2) A COMPACTING STATE'S ATTORNEY GENERAL DETERMINES THAT
30 THE OTHER COMPACTING STATE HAS REPEALED, REPLACED, OR FAILED TO
31 IMPLEMENT ANY ASPECT OF THIS COMPACT, INCLUDING FAILING TO IMPLEMENT

1 THE DISTRICT MAP ADOPTED BY A COMMISSION.

2 8-6A-03.

3 (A) THERE IS A CONGRESSIONAL DISTRICTING COMMISSION.

4 (B) SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, THE
5 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL:

6 (1) DETERMINE THE SIZE AND COMPOSITION OF THE COMMISSION;
7 AND

8 (2) ON OR BEFORE JUNE 1 OF THE YEAR FOLLOWING THE DECENNIAL
9 CENSUS, SELECT THE MEMBERS OF THE COMMISSION.

10 (C) (1) THE MEMBERS OF THE COMMISSION SHALL INCLUDE:

11 (I) A DEMOGRAPHER;

12 (II) A CARTOGRAPHER;

13 (III) AN APPLIED MATHEMATICIAN;

14 (IV) A COMPUTER SCIENTIST; AND

15 (V) A LAWYER OR LEGAL EXPERT WHO SPECIALIZES IN
16 ELECTION AND REDISTRICTING LAW.

17 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE
18 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL
19 DETERMINE THE EDUCATION AND EXPERIENCE THAT AN INDIVIDUAL IS REQUIRED
20 TO HAVE IN ORDER TO BE SELECTED AS ONE OF THE MEMBERS LISTED IN
21 PARAGRAPH (1) OF THIS SUBSECTION.

22 (3) IN DETERMINING THE EDUCATION AND EXPERIENCE REQUIRED,
23 THE EXECUTIVE DIRECTOR MAY NOT DEVIATE FROM WHAT IS NORMALLY
24 CONSIDERED TO BE THE MINIMUM QUALIFICATIONS REQUIRED TO BE EMPLOYED AS
25 THE PROFESSIONAL LISTED.

26 (D) MEMBERS OF THE COMMISSION SHALL BE:

27 (1) FULL-TIME EMPLOYEES OF THE DEPARTMENT OF LEGISLATIVE
28 SERVICES; OR

(2) IF THE EXECUTIVE DIRECTOR DETERMINES THAT THE NEEDS OF THE COMMISSION CANNOT BE MET WITH THE AVAILABLE FULL-TIME EMPLOYEES OF THE DEPARTMENT OF LEGISLATIVE SERVICES, EMPLOYEES HIRED ON A CONTRACTUAL BASIS FOR THE PURPOSE OF SERVING ON THE COMMISSION.

(E) THE TERM OF A MEMBER OF THE COMMISSION BEGINS WHEN THE MEMBER IS SELECTED AND ENDS WHEN:

(1) A CONGRESSIONAL DISTRICTING PLAN IS ADOPTED BY THE GENERAL ASSEMBLY UNDER § 8-6A-05 OF THIS SUBTITLE; OR

(2) THE COURT OF APPEALS IS REQUIRED TO PREPARE THE CONGRESSIONAL DISTRICTING PLAN UNDER § 8-6A-05(F) OF THIS SUBTITLE.

(F) WHILE SERVING ON THE COMMISSION, A MEMBER MAY NOT BE:

(1) AN ELECTED OFFICIAL;

(2) AN OFFICIAL WHOSE APPOINTMENT IS SUBJECT TO SENATE CONFIRMATION; OR

(3) A CANDIDATE FOR ELECTED OFFICE.

(G) (1) A MEMBER OF THE COMMISSION MAY BE REMOVED DURING THE MEMBER'S TERM ONLY BY IMPEACHMENT UNDER ARTICLE III, § 26 OF THE MARYLAND CONSTITUTION FOR MALFEASANCE, MISFEASANCE, OR NONFEASANCE.

(2) IF A FULL-TIME EMPLOYEE OF THE DEPARTMENT OF LEGISLATIVE SERVICES IS REMOVED FROM THE COMMISSION BY IMPEACHMENT UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT MAY NOT TERMINATE THE EMPLOYMENT OF THE EMPLOYEE UNLESS THE MALFEASANCE, MISFEASANCE, OR NONFEASANCE WOULD HAVE BEEN GROUNDS FOR TERMINATION IF COMMITTED BY THE EMPLOYEE IN THE COURSE OF THE EMPLOYEE'S OTHER DUTIES.

8-6A-04.

(A) EACH CONGRESSIONAL DISTRICT SHALL CONSIST OF ADJOINING TERRITORY, BE COMPACT IN FORM, AND BE OF SUBSTANTIALLY EQUAL POPULATION.

(B) DUE REGARD SHALL BE GIVEN TO NATURAL BOUNDARIES AND THE

1 BOUNDARIES OF POLITICAL SUBDIVISIONS WHEN DRAWING CONGRESSIONAL
2 DISTRICT BOUNDARIES.

3 8-6A-05.

4 (A) FOLLOWING EACH DECENNIAL CENSUS OF THE UNITED STATES AND
5 AFTER PUBLIC HEARINGS, THE COMMISSION SHALL PREPARE A PLAN
6 ESTABLISHING THE BOUNDARIES OF THE CONGRESSIONAL DISTRICTS THAT
7 COMPLIES WITH APPLICABLE FEDERAL LAW, § 8-6A-04 OF THIS SUBTITLE, AND ANY
8 OTHER APPLICABLE STATE LAW.

9 (B) THE COMMISSION SHALL PRESENT THE PLAN TO THE PRESIDENT OF
10 THE SENATE AND THE SPEAKER OF THE HOUSE OF DELEGATES, WHO SHALL
11 INTRODUCE THE PLAN AS A JOINT RESOLUTION TO THE GENERAL ASSEMBLY NOT
12 LATER THAN THE FIRST DAY OF ITS REGULAR SESSION IN THE SECOND YEAR
13 FOLLOWING THE DECENNIAL CENSUS.

14 (C) THE GOVERNOR MAY CALL A SPECIAL SESSION FOR THE PRESENTATION
15 OF THE PLAN BEFORE THE REGULAR SESSION.

16 (D) (1) THE PLAN MAY NOT BE AMENDED.

17 (2) A MEMBER OF THE GENERAL ASSEMBLY MAY NOT INTRODUCE A
18 JOINT RESOLUTION OR A BILL CONTAINING A CONGRESSIONAL DISTRICTING PLAN
19 THAT IS DIFFERENT FROM THE PLAN PROPOSED BY THE COMMISSION.

20 (E) (1) THE PLAN SHALL BECOME LAW ON ADOPTION BY THE GENERAL
21 ASSEMBLY BY A MAJORITY VOTE OF BOTH HOUSES.

22 (2) IF THE GENERAL ASSEMBLY FAILS TO ADOPT THE PLAN BY THE
23 17TH DAY AFTER THE OPENING OF THE REGULAR SESSION OF THE LEGISLATURE IN
24 THE SECOND YEAR FOLLOWING THE DECENNIAL CENSUS, THE COMMISSION SHALL
25 PREPARE AN ALTERNATE PLAN AND SUBMIT IT TO THE PRESIDENT OF THE SENATE
26 AND THE SPEAKER OF THE HOUSE OF DELEGATES, WHO SHALL INTRODUCE THE
27 PLAN AS A JOINT RESOLUTION TO THE GENERAL ASSEMBLY.

28 (F) IF THE ALTERNATE PLAN INTRODUCED UNDER SUBSECTION (E)(2) OF
29 THIS SECTION FAILS TO RECEIVE A MAJORITY VOTE OF BOTH HOUSES BY THE 52ND
30 DAY AFTER THE OPENING OF THE REGULAR SESSION OF THE GENERAL ASSEMBLY
31 IN THE SECOND YEAR FOLLOWING THE DECENNIAL CENSUS, THE COURT OF
32 APPEALS SHALL PREPARE THE PLAN ESTABLISHING THE BOUNDARIES OF THE
33 CONGRESSIONAL DISTRICTS.

1 **(G) IF THE GENERAL ASSEMBLY ADOPTS A PLAN, ON PETITION OF ANY**
2 **REGISTERED VOTER, THE COURT OF APPEALS:**

3 **(1) SHALL HAVE ORIGINAL JURISDICTION TO REVIEW THE**
4 **CONGRESSIONAL DISTRICTING PLAN; AND**

5 **(2) MAY GRANT APPROPRIATE RELIEF IF IT FINDS THAT THE**
6 **CONGRESSIONAL DISTRICTING PLAN IS NOT CONSISTENT WITH APPLICABLE**
7 **FEDERAL AND STATE LAW.**

8 SECTION 2. AND BE IT FURTHER ENACTED, That:

9 (a) This Act may not take effect until a similar Act is enacted by the
10 Commonwealth of Virginia not later than January 1, 2021.

11 (b) The Commonwealth of Virginia is requested to concur in this Act by enactment
12 of a similar Act before January 1, 2021.

13 (c) The Department of Legislative Services shall notify the appropriate officials
14 of the Commonwealth of Virginia of the enactment of this Act.

15 (d) On the concurrence in this Act by the Commonwealth of Virginia, the
16 Governor of the State of Maryland shall issue a proclamation declaring this Act valid and
17 effective and shall forward a copy of the proclamation to the Executive Director of the
18 Department of Legislative Services.

19 (e) If the Commonwealth of Virginia does not concur in this Act as specified in
20 this section, this Act, with no further action required by the General Assembly, shall be
21 null and void.

22 SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this
23 Act, this Act shall take effect October 1, 2020.