



Fairfax County Democratic Committee

Resolution Urging Adoption of Nonpartisan Anti-gerrymandering Reforms and Rejection of Proposed Redistricting Amendment, Senate Joint Resolution No. 18

WHEREAS, political gerrymandering is a substantial problem harming representational democracy throughout the United States; and within the Commonwealth of Virginia, lines for General Assembly and congressional seats have frequently been drawn to benefit the political party in power and to protect its incumbents—to the detriment of voters.

WHEREAS, gerrymandering has often been used to disadvantage and harm people of color by minimizing (or negating) their political strength.

WHEREAS, gerrymandering results in expensive legal challenges to minimize its harmful effects; for example, Virginia taxpayers recently spent millions of dollars defending the rights of vulnerable communities against what federal courts determined was racial gerrymandering.

WHEREAS, the Fairfax County Democratic Committee (FCDC) strongly opposes gerrymandering and strongly supports legislation—and a proper constitutional amendment—that would restrict gerrymandering to the maximum extent possible (if not eliminate the practice entirely).

WHEREAS, for many years, numerous Virginia Democratic General Assembly members have led the fight against gerrymandering by, among other things, introducing anti-gerrymandering legislation, including bills to create an independent commission to perform redistricting every 10 years, and by working to build support for such reform efforts (which have been consistently opposed by members of the Republican party).

WHEREAS, on February 23, 2019, the Virginia General Assembly passed a proposed constitutional amendment, Senate Joint Resolution No. 306, that would create a “Redistricting Commission” empowered to perform the decennial reapportionment of voters; under Article XII of the Virginia Constitution, the General Assembly must again consider and pass the same amendment language during the 2020 legislative session before that proposed amendment can be submitted to the voters during the November 2020 general election. For the 2020 session, the amendment is numbered “SJ18.”

WHEREAS, the proposed amendment does not include any anti-gerrymandering restrictions and, instead, creates a permanent (constitutional) commission to redistrict the Commonwealth pursuant to “enabling” or “criteria” legislation that will presumably be passed—and may be changed in the future—by the General Assembly.

WHEREAS, SJ18 rejects the nonpartisan or independent approaches to redistricting pursued in previous Democratic legislative efforts and as supported by most anti-gerrymandering reformers and, instead, proposes a bi-partisan commission comprised of eight currently serving politicians (members of the General Assembly) and eight citizens put forward by legislators, to draw and agree on legislative maps.

WHEREAS, the proposed amendment’s super-majority requirements would give two Republican legislator-members an absolute right to reject (or veto) the commission’s maps for Virginia’s House of Delegates or Senate, and the amendment would allow any three Republican legislator-members to veto commission maps for Virginia’s seats in the U.S. House of Representatives.

WHEREAS, if members of the proposed commission fail to agree on maps (including as a result of a veto, as discussed above), SJ18 removes popularly elected representatives from any further

involvement in the redistricting process and states that “the districts shall be established by the Supreme Court of Virginia.”

WHEREAS, members of the Virginia Supreme Court have no institutional expertise in performing the redistricting function (e.g., drawing and approving political legislative district maps); in addition, a majority of the current members of that Court were appointed by General Assemblies controlled by Republicans elected based on maps that the federal courts have held were unconstitutionally gerrymandered to disempower communities of color and minimize Democratic representation.

WHEREAS, there are concerns that under the commission structure created by SJ18, Republican commission members could veto maps, the Virginia Supreme Court could then “establish” legislative maps favoring Republican candidates, and future Republican office holders could appoint Republicans to the Supreme Court, resulting in the loss of the Democratic the majority in the House of Delegates as early as 2021 and the Senate by 2023—and potentially resulting in Democrats being unable to retake the majority in either body despite representing a substantial and growing majority of Virginia’s population.

WHEREAS, although Democratic legislators and some anti-gerrymandering activists are attempting to develop (and are beginning to propose) “criteria” legislation to reduce the risk of the structural problems with the commission (e.g., SB203, SB204), many of the concerns raised regarding the amendment cannot be resolved by such legislation; among other things, criteria legislation cannot (i) change the partisan membership of the commission mandated by SJ18, (ii) alter the super-majority requirements that could enable two or three Republicans to cause the commission to reject any legislative map, or (iii) eliminate the risk that the Virginia Supreme Court could determine that the amendment does not permit criteria legislation to restrict the manner by which the Court prepares legislative district maps.

WHEREAS, instead of adding an amendment to the Virginia Constitution that poses the substantial concerns addressed above, FCDC understands that substantial anti-gerrymandering reform can be implemented by enacting legislation to control the redistricting process in 2021—and preclude gerrymandering and mandate transparency in the process.

WHEREAS, anti-gerrymandering legislation has been introduced in the General Assembly’s current session and would mandate creation of an independent advisory commission to develop and recommend redistricting maps pursuant to specific criteria (e.g., HB1054, HB1256, HB1645), and a new constitutional amendment proposal (HJ143) has been introduced that could be passed to control future redistricting processes; further, at least one of these proposals has been publicly supported as superior anti-gerrymandering reform (relative to SJ18) by at least one notable anti-gerrymandering group.

THEREFORE, BE IT RESOLVED that FCDC strongly supports non-partisan or independent anti-gerrymandering reforms and urges all members of the General Assembly representing any part of Fairfax County to support legislation that, beginning in 2021, imposes strict criteria regarding the redistricting process on the legislature to ensure that legislative district maps fairly represent Virginia’s population, and that future redistricting will be performed without the practice of gerrymandering to increase one party’s political representation beyond its actual popular support (as measured by recent elections), and/or to protect incumbents.

IT IS FURTHER RESOLVED that the FCDC urges that, if members of the General Assembly representing any part of Fairfax County determine that passing legislation to create a nonpartisan or independent commission to develop and suggest maps to the legislature is the best way to enact the strongest redistricting reform, such legislation should, to the maximum extent possible, limit the legislature to an up-or-down vote on any legislative maps proposed by such commission, and should not assign the Virginia Supreme Court any role other than resolving lawsuits that come before it in the ordinary course.

IT IS FURTHER RESOLVED that the FCDC urges all elected members of the General Assembly who represent any part of Fairfax County to vote NO on SJ18 following passage of legislation ensuring a nonpartisan or independent redistricting process will be implemented in 2021.

IT IS FURTHER RESOLVED that the FCDC urges legislators, after analyzing anti-gerrymandering reforms implemented for the 2021 election (and similar reform efforts in other states), to support passage of a constitutional amendment that would be applicable beginning with the 2031 redistricting process and that would create a nonpartisan or independent commission with requirements prohibiting gerrymandering based on appropriate criteria and requiring that a completely transparent redistricting process be conducted by such a commission.

PASSED and APPROVED this RESOLUTION on this 28th day of January 2020.

References:

- SJ306 (2019 Session): <http://lis.virginia.gov/cgi-bin/legp604.exe?191+ful+SJ306ER+pdf>
- SJ18 (2020 Session): <https://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+SJ18+pdf>
- SB203 (2020): <http://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+SB203+pdf>
- SB204 (2020): <http://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+SB204+pdf>
- HB1054 (2020): <http://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+HB1054+pdf>
- HB1256 (2020): <http://leg1.state.va.us/cgi-bin/legp504.exe?201+ful+HB1256+pdf>
- HB1645 (2020): <http://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+HB1645+pdf>
- HJ143 (2020): <http://lis.virginia.gov/cgi-bin/legp604.exe?201+ful+HJ143+pdf>