

OFFICIAL ELECTION RESULTS -- NOVEMBER 2, 2004 GENERAL ELECTION

PROPOSED CONSTITUTIONAL AMENDMENTS

Proposed Amendment 1: Shall Section 6 of Article II of the Constitution of Virginia be amended to provide that members of the United States House of Representatives, Virginia Senate, and House of Delegates who are serving in the year following a new United States Census, when decennial redistricting is required, shall complete their terms of office and continue to represent the district from which they were elected for that term of office and that any vacancy during the term shall be filled from the same district that elected the member whose term is being filled?

EXPLANATION: The proposed amendment clarifies provisions concerning the effective date and implementation of decennial redistricting laws.

The proposed amendment continues the requirement that the General Assembly must reapportion General Assembly and congressional districts every ten years in the year after a new federal census. This reapportionment or redistricting is done by redrawing the district boundaries so that the populations in the districts are kept as equal as "practicable." Redistricting is done to adjust district populations based on information from the new Census.

The General Assembly redrew state Senate, House of Delegates, and congressional district lines in 2001 after the 2000 Census and will be required to redraw lines in 2011 after the 2010 Census and every ten years afterwards.

The proposed amendment restates the practice under the present Constitution and makes it clear that the redrawn districts will not be used until the November general election held immediately before the end of the terms being served in the year of the redistricting. There were November elections from new districts in 2001 for the House of Delegates, 2002 for the United States House of Representatives, and 2003 for the state Senate as those terms ended in 2002, 2003, and 2004, respectively.

The proposed amendment therefore states that the members in office when a decennial redistricting law is enacted shall complete their terms of office and continue to represent the districts from which they were elected for the duration of those terms of office.

The question that led to this proposed amendment is which district to use when a vacancy occurs before those terms end. After the 2001 redistricting, there were several vacancies in state Senate seats, and they were filled from new districts. This solution created some confusion because both old and new districts were represented in the Senate at the same time. Some people who had voted in the old district of the member who died or resigned were not voters in the new district and so did not have a representative in the state Senate for whom they had voted. Other people living in the new district had voted in elections for two members of the state Senate -- one from the their old district who still served and one elected to fill the vacancy from the new district.

The proposed amendment instead requires that the vacancy must be filled from the district as it existed when the member who has died or resigned was elected. It does so in the new language that specifies that any vacancy occurring during the terms being served in a redistricting year (2011, 2021, etc.) will be filled from the preexisting district, that is, the same district that elected the member whose vacancy is being filled.

FULL TEXT OF AMENDMENT [*Proposed new language is underlined; deleted language is stricken.*] Amend Section 6 of Article II of the Constitution of Virginia as follows:

ARTICLE ii FRANCHISE AND OFFICERS Section 6. Apportionment.

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. 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 into electoral districts in accordance with this section in the year ~~1971~~2011 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.

Final copy 3/12/04 Approved by Senate Committee on Privileges and Elections on March 12, 2004.

Passed For 2,364,027 Against 391,100 Total 2,755,127

Proposed Amendment 2: Shall Section 16 of Article V of the Constitution of Virginia be amended to provide for additional possible successors to fill the office of Governor in the event of an emergency or enemy attack and until the House of Delegates is able to meet to elect a Governor?

EXPLANATION: The Constitution now provides for successors to serve as Governor or Acting Governor if the Governor dies, resigns, or cannot serve as Governor. The present list of successors includes the Lieutenant Governor, the Attorney General, and the Speaker of the House of Delegates, in that order. If these listed officials cannot serve as Governor or Acting Governor, the House of Delegates then meets to elect a person to fill the vacancy in the office of Governor.

The proposed constitutional amendment expands the list of persons who may serve as Acting Governor in the event of an emergency or enemy attack that prevents the House of Delegates from meeting to elect a person to fill the vacancy.

The amendment adds to the list: the person designated by the Rules of the House of Delegates to succeed the Speaker, the President pro tempore of the Senate, and the majority leader of the Senate, in that designated order. The successor would be Acting Governor until the House of Delegates convened to elect a Governor. The amendment also includes authority for the General Assembly, by law, to provide for a waiver of certain eligibility requirements for the Attorney General, Speaker, or acting Speaker to serve as Governor or acting Governor in the event of an emergency or enemy attack.

The Secure Virginia Panel recommended on September 5, 2002, that the Constitution be amended to expand the list of possible successors to the office of Governor. This Panel was created by Executive Order 7 (2002) to make recommendations for improving the Commonwealth's preparedness and ability to respond to disasters and emergencies of all kinds, including terrorist attacks. The Panel recommended expanding the list of possible successors in case a disaster or emergency prevents the House of Delegates from meeting to elect a successor.

FULL TEXT OF AMENDMENT: *[Proposed new language is underlined; deleted language is stricken.]* Amend Section 16 of Article V of the Constitution of Virginia as follows:

ARTICLE V EXECUTIVE: Section 16. Succession to the office of Governor.

When the Governor-elect is disqualified, resigns, or dies following his election but prior to taking office, the Lieutenant Governor-elect shall succeed to the office of Governor for the full term. When the Governor-elect fails to assume office for any other reason, the Lieutenant Governor-elect shall serve as Acting Governor.

Whenever the Governor transmits to the President pro tempore of the Senate and the Speaker of the House of Delegates his written declaration that he is unable to discharge the powers and duties of his office and until he transmits to them a written declaration to the contrary, such powers and duties shall be discharged by the Lieutenant Governor as Acting Governor.

Whenever the Attorney General, the President pro tempore of the Senate, and the Speaker of the House of Delegates, or a majority of the total membership of the General Assembly, transmit to the Clerk of the Senate and the Clerk of the House of Delegates their written declaration that the Governor is unable to discharge the powers and duties of his office, the Lieutenant Governor shall immediately assume the powers and duties of the office as Acting Governor.

Thereafter, when the Governor transmits to the Clerk of the Senate and the Clerk of the House of Delegates his written declaration that no inability exists, he shall resume the powers and duties of his office unless the Attorney General, the President pro tempore of the Senate, and the Speaker of the House of Delegates, or a majority of the total membership of the General Assembly, transmit within four days to the Clerk of the Senate and the Clerk of the House of Delegates their written declaration that the Governor is unable to discharge the powers and duties of his office. Thereupon the General Assembly shall decide the issue, convening within forty-eight hours for that purpose if not already in session. If within twenty-one days after receipt of the latter declaration or, if the General Assembly is not in session, within twenty-one days after the General Assembly is required to convene, the General Assembly determines by three-fourths vote of the elected membership of each house of the General Assembly that the Governor is unable to discharge the powers and duties of his office, the Lieutenant Governor shall become Governor; otherwise, the Governor shall resume the powers and duties of his office.

In the case of the removal of the Governor from office or in the case of his disqualification, death, or resignation, the Lieutenant Governor shall become Governor.

If a vacancy exists in the office of Lieutenant Governor when the Lieutenant Governor is to succeed to the office of Governor or to serve as Acting Governor, the Attorney General, if he is eligible to serve as Governor, shall succeed to the office of Governor for the unexpired term or serve as Acting Governor. If the Attorney General is ineligible to serve as Governor, the Speaker of the House of Delegates, if he is eligible to serve as Governor, shall succeed to the office of Governor for the unexpired term or serve as Acting Governor. If a vacancy exists in the office of the Speaker of the House of Delegates or if the Speaker of the House of Delegates is ineligible to serve as Governor, the House of Delegates shall convene and fill the vacancy.

In the event of an emergency or enemy attack upon the soil of Virginia and a resulting inability of the House of Delegates to convene to fill the vacancy, the Speaker of the House, the person designated to act in his stead as prescribed in the Rules of the House of Delegates, the President pro tempore of the Senate, or the majority leader of the Senate, in that designated order, shall serve as Acting Governor until such time as the House of Delegates convenes to elect a Governor.

The General Assembly may provide by law for the waiver of the eligibility requirements for the Attorney General, Speaker of the House, or acting Speaker to serve as Governor or Acting Governor in the event of an emergency or enemy attack upon the soil of Virginia as evidenced by a proclamation of the Governor or alternative authority prescribed by law.

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Passed **For 2,420,882** **Against 354,640** **Total 2,775,522**