

# HOUSE BILL 284

G1, P5

CONSTITUTIONAL AMENDMENT

9lr0578

CF 9lr2648

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By: **Delegates Schuh and Minnick**

Introduced and read first time: January 29, 2009

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Election Law – Legislative Districting and Apportionment Commission**

3 FOR the purpose of proposing an amendment to the Maryland Constitution 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, chair, and duties of the  
7 Commission; requiring the Commission to establish rules and procedures;  
8 making Commission meetings and records subject to State law governing open  
9 meetings and public records; requiring the Commission to file a final report  
10 within a certain period of time with the Secretary of State; providing for the  
11 removal of a Commission member under certain circumstances; specifying a  
12 process for filling a vacancy on the Commission; providing for the dissolution of  
13 the Commission; requiring the Attorney General to petition the Court of  
14 Appeals to review the Commission's final report and make certain  
15 determinations; requiring the Commission to prepare an amended plan under  
16 certain circumstances; requiring the Court of Appeals to take certain actions  
17 with respect to the Commission's report under certain circumstances; specifying  
18 that the Commission shall have staff and other resources as provided in the  
19 State budget; and submitting this amendment to the qualified voters of the  
20 State of Maryland for their adoption or rejection.

21 BY proposing a repeal of the Maryland Constitution

22 Article III – Legislative Department

23 Section 5

24 BY proposing an addition to the Maryland Constitution

25 Article III – Legislative Department

26 Section 5

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

4 **Article III – Legislative Department**

5 [5.

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

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

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

29 **5.**

30 **(A) (1) IN THE YEAR FOLLOWING EACH DECENNIAL CENSUS OF THE**  
31 **UNITED STATES OR WHEN REQUIRED BY THE UNITED STATES OR BY COURT**  
32 **ORDER, A LEGISLATIVE DISTRICTING AND APPORTIONMENT COMMISSION**  
33 **SHALL BE APPOINTED:**

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

1                   (II) TO DIVIDE THE STATE TO CREATE AS MANY  
2 CONGRESSIONAL DISTRICTS AS THERE ARE REPRESENTATIVES IN CONGRESS  
3 APPORTIONED TO THIS STATE.

4                   (2) LEGISLATIVE DISTRICTS SHALL BE ESTABLISHED IN  
5 ACCORDANCE WITH THE CONSTITUTION OF THE UNITED STATES OF AMERICA  
6 AND THE MARYLAND CONSTITUTION AND SHALL BE AS NEARLY EQUAL IN  
7 POPULATION AS PRACTICAL, BUT SHALL NOT DEVIATE MORE THAN 1% IN  
8 POPULATION BETWEEN DISTRICTS.

9                   (B) (1) THE LEGISLATIVE DISTRICTING AND APPORTIONMENT  
10 COMMISSION SHALL BE COMPRISED OF SEVEN MEMBERS.

11                   (2) A MEMBER OF THE COMMISSION:

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

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

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

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

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

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

29                                 (II) THE POOL OF CANDIDATES SHALL CONSIST OF:

30   1. TEN CANDIDATES FROM THE MAJORITY PARTY;

31   2. TEN CANDIDATES FROM THE PRINCIPAL  
32 MINORITY PARTY; AND

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

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

8                               **1. THE PRESIDENT OF THE SENATE SHALL MAKE**  
9 **ONE APPOINTMENT;**

10                              **2. THE MINORITY LEADER OF THE SENATE SHALL**  
11 **MAKE ONE APPOINTMENT;**

12                              **3. THE SPEAKER OF THE HOUSE OF DELEGATES**  
13 **SHALL MAKE ONE APPOINTMENT; AND**

14                              **4. THE MINORITY LEADER OF THE HOUSE OF**  
15 **DELEGATES SHALL MAKE ONE APPOINTMENT.**

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

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

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

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

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

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

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

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

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

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

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

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

27                   **(I) THE COMMISSION SHALL BE DISSOLVED;**

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

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

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

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

9           **(3) (I) WITHIN 5 DAYS AFTER THE FILING OF AN AMENDED**  
10 **PLAN, THE ATTORNEY GENERAL SHALL PETITION THE COURT OF APPEALS TO**  
11 **DETERMINE THE VALIDITY OF THE AMENDED PLAN; OR**

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

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

17                           **(I) THE COMMISSION SHALL BE DISSOLVED; AND**

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

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

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

28           SECTION 3. AND BE IT FURTHER ENACTED, That the foregoing section  
29 proposed as an amendment to the Maryland Constitution shall be submitted to the  
30 legal and qualified voters of this State at the next general election to be held in  
31 November, 2010 for their adoption or rejection pursuant to Article XIV of the  
32 Maryland Constitution. At that general election, the vote on this proposed amendment  
33 to the Constitution shall be by ballot, and upon each ballot there shall be printed the  
34 words "For the Constitutional Amendment" and "Against the Constitutional  
35 Amendment," as now provided by law. Immediately after the election, all returns shall  
36 be made to the Governor of the vote for and against the proposed amendment, as

1 directed by Article XIV of the Maryland Constitution, and further proceedings had in  
2 accordance with Article XIV.