

VIRGINIA:

IN THE CIRCUIT COURT OF THE CITY OF RICHMOND
John Marshall Courts Building

CHRISTALYN M. JETT,
In her capacity as Clerk of the
Spotsylvania County Circuit Court,

GORDON F. ERBY,
In his capacity as the Clerk of the
Lunenburg County Circuit Court,

and

HEIDI S. BARSHINGER,
In her capacity as Clerk of the
Henrico County Circuit Court,

Plaintiffs,

v.

G. PAUL NARDO,
In his capacity as the Clerk of the
Virginia House of Delegates
SERVE: Virginia State Capitol, 3rd floor
Office of the Clerk of the House
Richmond, VA 23219
(City of Richmond)

SUSAN CLARKE SCHAAR,
In her capacity as the Clerk of the
Senate of Virginia
SERVE: Virginia State Capitol, 3rd floor
Office of the Clerk of the Senate
Richmond, VA 23219
(City of Richmond)

DON SCOTT,)
 In his capacity as Speaker of the)
 Virginia House of Delegates)
 SERVE: General Assembly Building, rm. 1403)
 201 N. 9th Street)
 Richmond, VA 23219)
 (City of Richmond))
)
 And)
)
 WINSOME EARLE-SEARS,)
 In her capacity as Lieutenant Governor)
 Of Virginia and President of the)
 Senate of Virginia)
 Serve: 102 Governor Street)
 Richmond, VA 23219)
 (City of Richmond))
)
 Defendants.)

VERIFIED COMPLAINT
And
PETITION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY AND PERMANENT INJUNCTION

Plaintiffs Christalyn M. Jett, as Clerk of the Spotsylvania County Circuit Court; Gordon F. Erby, as Clerk of the Lunenburg County Circuit Court; and Heidi S. Barshinger, as Clerk of the Henrico County Circuit Court, by counsel, respectfully represent unto the Court as follows:

1. Plaintiff Christalyn M. Jett is the elected Clerk of the Spotsylvania County Circuit Court, an elected constitutional officer, charged with many duties by statute and other law.
2. Plaintiff Gordon F. Erby is the elected Clerk of the Lunenburg County Circuit Court, an elected constitutional officer, charged with many duties by statute and other law.

3. Plaintiff Heidi S. Barshinger is the elected Clerk of the Henrico County Circuit Court, an elected constitutional officer, charged with many duties by statute and other law.
4. Defendant G. Paul Nardo is the appointed Clerk of the Virginia House of Delegates, and is sued in his official capacity.
5. Defendant Susan Clarke Schaar is the appointed Clerk of the Senate of Virginia, and is sued in her official capacity.
6. Defendant Don Scott is an elected member of the Virginia House of Delegates, and is sued in his official capacity as the Speaker of the House of Delegates.
7. Defendant Winsome Earle-Sears is the elected Lieutenant Governor of Virginia, and as such, also serves as the President of the Senate of Virginia; she is sued only in her latter, official capacity.

Virginia's Redistricting Commission

8. Prior to 2020, Virginia had a long history of determining the boundaries of the districts of members of the Virginia House of Delegates, the Senate of Virginia, and (within the boundaries of Virginia) of the United States House of Representatives through legislative, and therefore political, actions -- specifically by bills proposed, passed, and then signed into law by the Governor.
9. That history was replete with instances of Gerrymandering, i.e., the crafting of district lines not based upon objective criteria, but rather, upon criteria emphasizing the prospects of the political party holding legislative majorities, and of incumbent elected members of the General Assembly and their personal aspirations.

10. Using the process outlined in Article XII of the Constitution of Virginia, the legislature passed a joint resolution in both its 2019 and 2020 sessions, proposing to create a Virginia Redistricting Commission (“the Commission”), which would have the authority to determine the boundaries of all General Assembly and Virginia congressional districts. In the event the Commission were unable to resolve the boundaries, the joint resolution provided that the Supreme Court of Virginia would then establish the district boundaries. The proposal was approved in a referendum put to the electorate of the Commonwealth in 2020, at which time it passed with an affirmative vote of approximately 65.7%, whereupon, Article II, § 6-A of the Constitution of Virginia came into full force and effect.
11. Since the adoption of Constitution of Virginia Art. II, § 6-A, all matters of redistricting have been dedicated to the non-legislative process described therein. In 2020, for example, the district boundaries were ultimately established by the Supreme Court of Virginia.

The 2024 Special Session of the Virginia General Assembly

12. Virginia does not permit the legislature to remain in session year round or perpetually. To the contrary, the Constitution of Virginia contemplates that the legislature will serve only part time, and thereby be able to draw its members from the general public, including members holding other/private employment, who may thereby bring varied perspectives to the legislature, as opposed to creating a class of full-time, professional politicians. These limitations also have deep roots in Virginia’s constitutional history and reflect a longstanding “distrust of legislators” as

well as a “fear of ... more laws and more changes in the law.” A.E. Dick Howard, 1 *Commentaries on the Constitution of Virginia* 491, 493 (1974).

13. Specifically, Constitution of Virginia Art. IV, § 6, prescribes maximum durations for the regular, annual sessions of the General Assembly, which may be no longer than sixty days in even-numbered years, and no longer than thirty days in odd-numbered years. Such sessions may be extended, but only (i) by two-thirds votes in each house, and (ii) for periods not exceeding an additional thirty days.
14. Constitution of Virginia Art. IV, § 6 and Art. V, §5 provide that additional, special sessions of the General Assembly may be convened upon call by the Governor. This provision was first adopted in the revised Constitution of Virginia of 1971, and therefore continued to reflect the cautious approach indicated by Professor Howard (see ¶ 12, above). The Governor may call a special session as an exercise of his discretion. The Governor may also be compelled to issue such a call, but only upon a vote of two-thirds of the members elected to each house of the General Assembly. There is no other procedure for holding any special sessions; no one other than the Governor may issue a call for any special session.
15. A special session is “special” in two aspects. First, it is convened during a period when the General Assembly would not otherwise be in regular session pursuant to Constitution of Virginia Art. IV, §6. Second, it may, at the Governor’s discretion, be convened only for prescribed, limited purposes, so as to further the Commonwealth’s constitutional commitment to a part-time legislature that does not sit year round or perpetually, as noted above.

16. Although no Virginia court has yet, to plaintiffs' knowledge, ruled upon this issue, at the time the 1971 constitution (with the new special session provisions) was adopted, it was widely considered settled law that the call for such a session could properly limit the subjects to be addressed by the session. *See Arrow Club, Inc. v. Nebraska Liquor Control Comm.*, 131 NW2d 134, 137 (Neb. 1964); *State ex rel. Conway v. Versluis*, 120 P.2d 410, 413 (Ariz. 1941); *Com. Ex rel. Schnader v. Liveright*, 161 A. 697, 703 (Pa. 1932); *In re Opinions of the Justs.*, 166 S. 710, 712 (Ala. 1936); *Jones v. State*, 107 S.E. 765, 766 (Ga. 1921); *State ex rel. Bond v. Beightler*, 135 Ohio St. 361, 361-62 (Ohio 1939); *see also People v. Larkin*, 517 P.2d 389, 390 (Colo. 1973).
17. On April 17, 2024, Glenn Youngkin, then Governor of Virginia, invoked his powers as noted above, issuing a Proclamation calling a special session of the General Assembly ("the 2024 special session"), all as shown on the copy of the Proclamation attached as Exhibit A to this Complaint.
18. By the express terms of the Proclamation, the special session was called for limited purposes, namely, "completion of the 2024-26 biennial budget and amendments to the 2022-24 budget," and no other subject matter. *See Ex. A.*
19. At no time since has the Governor issued a constitutional call for a further special session of the General Assembly, nor has the Governor ever expanded the subject matter for which the special session was called.
20. The General Assembly convened pursuant to the Governor's proclamation beginning on May 13, 2024, and at the outset of that special session, adopted its rules for proceeding, all as shown on the copy of House Joint Resolution 6001, a copy of which is attached as Exhibit B to this Complaint.

21. Unfortunately, through HJR 6001, the General Assembly purported to arrogate unto itself powers to address certain matters beyond the scope of the Governor's Proclamation.
22. The General Assembly ultimately did address and resolve all issues pertaining to the "completion of the 2024-26 biennial budget and amendments to the 2022-24 budget," whereupon, the authority for the General Assembly to remain in special session ended, by operation of law.
23. Notwithstanding the expiration of its authority, the General Assembly took no action to adjourn *sine die*, i.e., it purported to continue the special session called by Governor Youngkin indefinitely.
24. The General Assembly convened for its annual, regular session in January 2025, and later adjourned that regular session *sine die*. The convening and later adjournment of the regular session had the effect of extinguishing any conceivable continuing authority to remain in special session, inasmuch as the entire concept of a "special" session is to allow the General Assembly to meet in-between its regular sessions. There can be no legitimate reason to continue a special session once a regular session has convened, addressed all business put before it, and then adjourned *sine die*.
25. Notwithstanding the expiration of all authority to continue with the 2024 special session, on February 22, 2025, the General Assembly, purporting to have reconvened the 2024 special session, adopted House Joint Resolution 6004, by which it sought to arrogate unto itself the power to address still further subject matter, specifically, fiscal impacts upon Virginia arising only since the election of a new President of the United

States and a resulting shift in certain matters of federal budgetary policy, all as shown on the copy of HJR 6004 attached as Exhibit C to this Complaint.

26. By letter dated and issued October 23, 2025, defendant Don Scott, purporting to exercise his authority as Speaker of the Virginia House of Delegates, communicated to all members of the General Assembly his desire to reconvene the legislature in a supposed continuation of the 2024 special session. The members of the General Assembly, wholly without authority to do so, did so convene beginning on October 27, 2025, at which time they purported to adopt House Joint Resolution 6006, a copy of which is attached as Exhibit D to this Complaint.
27. HJR 6006, by its terms, sought to further empower the General Assembly, purportedly sitting in continuation of the 2024 special session, not only to continue with such actions as were previously addressed by the prior joint resolutions, but also the new matter of “an amendment to the Constitution of Virginia related to reapportionment or redistricting.”
28. The ongoing actions of the General Assembly are *ultra vires*, void and of no effect, inasmuch as the 2024 special session has long since concluded, and cannot lawfully continue. The General Assembly actions would also be *ultra vires*, void and of no effect even if this Court were to permit the 2024 special session to continue through the present day, given that the General Assembly is purporting to act beyond the subject-matter scope of its authority granted by the Governor’s Proclamation (Ex. A), without first petitioning the governor for further authority by the required two-thirds majorities votes of each house.

Attempt to Amend the Constitution of Virginia

29. On Wednesday, October 29, 2025, purporting to act in the 2024 special session and pursuant to HJR 6006 (Ex. D), the House of Delegates, by a vote of 50-42, passed House Joint Resolution 6007, a copy of which is attached as Exhibit E to this Complaint.
30. On Friday, October 31, 2025, purporting to act in the 2024 special session and pursuant to HJR 6006 (Ex. D), the Senate also voted by a simple majority in favor of House Joint Resolution 6007 (Ex. E).
31. The goal of HJR 6007 is to diminish the authority bestowed upon the Virginia Redistricting Commission and/or the Supreme Court of Virginia by Constitution of Virginia Art. II, § 6-A, by granting certain powers of redistricting to the General Assembly, all on the terms shown in Ex. E.
32. Constitution of Virginia Art. XII, § 1, provides the process required for adoption of amendments to its terms. Specifically, the steps required are as follows:
 - a. A proposal must be presented to each house of the General Assembly, and approved in each by a majority of each's elected members;
 - b. The proposal must then be entered on the journals of each house by their respective clerks;
 - c. The proposal must then be "referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates;"

d. If the proposal is again approved at the subsequent General Assembly session, then the matter is submitted to the electorate of the Commonwealth in a referendum;

Whereupon, if the proposal is approved at each and every step, the Constitution is thereby amended.

33. The Commonwealth of Virginia's next Election *Day* is November 4, 2025. However, given the advent of "early voting" in the Commonwealth, voting for the current House of Delegates contests has been underway for several weeks. According to published reports, over a million Virginians have already cast their votes for the November election, that being over one-third of the likely total of votes to be cast in the election as a whole.

34. The process required by the Constitution of Virginia (see ¶ 32, above) offers the electorate not one, but two opportunities to weigh in on any proposed amendments. The requirement for a referendum vote is the second such opportunity. The first opportunity is presented when voters are permitted to consider how their incumbent members of the House of Delegates may have voted with respect to the proposal, and may therefore consider whether or not any incumbent should gain re-election; or the voters may consider the stated positions of any other candidates and vote accordingly, with such weight given to the issue of the pending proposal as each voter may see fit.

35. That process is further confirmed by Va. Code § 30-13. That statute requires that the Clerk of the House of Delegates (currently defendant Nardo), following passage of a proposed amendment to the constitution by both houses of the General Assembly, publish the proposed amendment to the clerks of all circuit courts of the

Commonwealth. The circuit court clerks, including your plaintiffs, are then required by the statute to post one copy of the proposal on the front door of the courthouses of each of their respective courts, and also to hold a second copy within their respective offices for public inspection.

36. According to Va. Code § 30-13, “Every clerk of the circuit court shall complete the posting required *not later than three months prior to the next ensuing general election* of members of the House of Delegates and shall certify such posting to the Clerk of the House of Delegates.” (Emphasis added.)

37. Va. Code § 30-13 is crafted to dovetail with and support the provisions of Constitution of Virginia Art. XII, § 1, with its requirement that a regular election for the members of the House of Delegates occur between the time of the General Assembly’s first passage of any proposed amendment, and any consideration of such a proposal for passage a second time.

38. In addition, Va. Code § 30-19 requires that, upon initial passage of any proposed amendment by both houses of the General Assembly, the proposal “shall be enrolled ... and signed by the President of the Senate and Speaker of the House of Delegates,” and the proposal “shall thereupon stand referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates.”

39. The obligations established by Va. Code § 30-19 would currently fall upon defendant Sears (inasmuch as the Lieutenant Governor serves as the President of the Senate), and upon defendant Scott (Speaker of the House of Delegates).

40. The stated intention of the proponents of HJR 6007 has been to adopt the proposed amendment to the Constitution of Virginia as alleged, with the purported approval on October 31, 2025 serving as the first instance of passage of the proposal; thereafter to refer the proposal to the 2026 regular session of the General Assembly; thereafter to hold a special election for the required referendum in spring 2026; and upon approval by the voters, to seek a further special session to exercise the powers that would thereupon be granted to the General Assembly, the ultimate objective being to revise the state's congressional districts in time to affect the composition of the state's delegation to the United States House of Representatives following the election to be held in November 2026.
41. In furtherance of their intentions, defendants Nardo, Schaar and Scott improperly and unlawfully intend to treat the November 4, 2025 Election Day as the intervening election required by Constitution of Virginia Art. XII, § 1, as a prerequisite to taking up the proposal during a later session of the General Assembly. These defendants intend, absent the intervention of this Court, to seek passage of the proposed amendment in the 2026 General Assembly's regular session in January 2026. (Upon information and belief, defendant Sears does not share this intention; to the contrary, she is opposed to the efforts of the other defendants, and is named as a defendant here solely because of her duties as alleged above.)
42. The November 4, 2025 Election Day cannot be deemed to satisfy the constitutional requirement for an intervening election. Too many Virginians have already voted in this year's election; neither your plaintiffs, nor any other circuit court clerks, could conceivably comply with Va. Code § 30-13 at this late date; and moreover, the

Attorney General of Virginia, Jason Miyares, has issued a formal opinion to confirm that the November 4, 2025 Election Day would not qualify as the requisite intervening election. A copy of the Opinion of the Attorney General issued October 28, 2025, is attached as Exhibit F to this Complaint.

Relief Needed by Your Plaintiffs

43. If the defendants are permitted to continue moving forward with their *ultra vires* acts, plaintiffs, as well as all other clerks of the circuit courts of Virginia, will be placed in an impossible position. If they post a copy of the proposed amendment on the doors of their respective courthouses as required by Va. Code § 30-13, they will have done so, at best, only 4 days prior to the November 4, 2025 Election Day, and would thereby be in violation of the statutory requirement to have made such posting at least three months prior to the election. It is obviously too late for the clerks to perform the required posting prior to the commencement of early voting, as that began several weeks ago. The only other available option would be for the clerks to ignore § 30-13 entirely, and to make no posting whatsoever, which again would place them in violation of that law. There is no third or other option available to the plaintiffs, nor to the other circuit court clerks.
44. All of the circuit court clerks have taken the prescribed oath of their offices, as part of which, they have duly sworn to uphold the constitutions and laws of the Commonwealth. The General Assembly may not rightfully compel the plaintiffs, nor any of the other circuit court clerks, to violate the law of the Commonwealth, nor otherwise to violate their oaths of office.

45. The only possible relief available to your plaintiffs is for this Court to act with immediate effect, to issue its decree, holding that all current actions of the purported, ongoing 2024 special session are *ultra vires*, void and of no effect, whether due to the special session's authority having previously expired, or due to the special session's authority having never extended to the consideration of any proposals for amending the Constitution of Virginia; or, failing that, holding that the current actions of the purported, ongoing 2024 special session are limited in impact to referring the current proposal to the General Assembly only after the next general election, that being in November 2027, so that the matter could not be further considered by the General Assembly until its 2028 regular session, all as set forth in the Opinion of the Attorney General (Ex. F).
46. Such action is the only avenue of redress for your plaintiffs, who have no other remedy available, whether at law or otherwise, and who shall be irreparably harmed in the absence of relief from this Court.
47. The balance of equities in this matter favors the plaintiffs, who, without the intervention of this Court, would stand subject to a statutory obligation which they have no means to fulfill.

WHEREFORE, Christalyn M. Jett, as Clerk of the Spotsylvania County Circuit Court; Gordon F. Erby, as Clerk of the Lunenburg County Circuit Court; and Heidi S. Barshinger, as Clerk of the Henrico County Circuit Court, pray that this Court will exercise its fullest powers as authorized by Va. Code §§ 184 and 620 *et seq.*, and Rule 3:26, and accordingly:

- A. Grant them a declaratory judgment to the effect that the 2024 special session of the Virginia General Assembly has long since concluded, and may no longer convene or take action of any kind so that any legislation supposedly passed on or after October 27, 2025 would be *ultra vires*, void and of no effect;
- B. In the alternative, grant them a declaratory judgment to the effect that the purposes for which the 2024 special session of the Virginia General Assembly was called by the Proclamation of the Governor were limited to those set forth in the Proclamation, and do not extend to the consideration of amendments to the Constitution of Virginia, so that any attempt to consider any such amendments would be *ultra vires*, void and of no effect;
- C. In the alternative, grant them a declaratory judgment that the proposal adopted October 31, 2025 cannot be further considered by the Virginia General Assembly until after the next general election, that being in November 2027, so that the Virginia General Assembly may not proceed further until its January 2028 regular session convenes;
- D. Issue an immediate temporary restraining order, to be followed by a preliminary or temporary injunction and a permanent injunction, to defendants Nardo and Schaar, as clerks of the respective houses of the Virginia General Assembly, prohibiting them from entering the current proposal on the journals of their respective houses, from referring the proposal to the 2026 general session of the Virginia General Assembly, from publishing the current proposal to the clerks of the circuit courts of the Commonwealth as contemplated by Va. Code § 30-13, or otherwise taking any actions to advance the current proposal;

- E. Issue an immediate temporary restraining order, to be followed by a preliminary or temporary injunction and a permanent injunction, to defendants Scott and Sears, prohibiting them from proceeding under Va. Code § 30-19 to enroll the proposal, to sign the proposal, to refer the proposal to the 2026 general session of the Virginia General Assembly, or otherwise taking any actions to advance the current proposal;
- F. To grant such other and further relief as this Court may deem appropriate.

CERTIFICATE PURSUANT TO RULE 3:26(b)(i)

Plaintiffs and the undersigned counsel hereby certify that the irreparable harm alleged in the foregoing Verified Complaint is immediate, in that plaintiffs are currently under an obligation to comply with Va. Code § 30-13 and cannot do so, and as a result, the plaintiffs will suffer harm before the defendants might be heard in opposition.

CHRISTALYN M. JETT, Clerk,
Spotsylvania County Circuit Court

GORDON F. ERBY, Clerk,
Lunenburg County Circuit Court

HEIDI S. BARSHINGER, Clerk,
Henrico County Circuit Court

By: 

Counsel

Bradley P. Marrs (VSB#25281)
Marrs & Henry
7202 Glen Forest Drive, Suite 307
Richmond, VA 23226
Tel. (804) 662-5716
Fax (804) 662-5712
bmarrs@marrs-henry.com

Zachary Werrell (VSB#99193)
Blue Ridge Law, PLLC
174 River Road
Faber, VA 22938
Tel. (434) 282-3969
Fax (434) 465-6021
z@blueridgeva.law

I affirm under penalty of perjury that I, Christalyn M. Jett, am one of the plaintiffs in the foregoing pleading, that I have read the contents of the Verified Complaint and Petition for Temporary Restraining Order and Preliminary and Permanent Injunction, that the factual allegations set forth therein are true and correct to the best of my knowledge and belief, and that I am in need of the relief requested.


Christalyn M. Jett

I affirm under penalty of perjury that I, Gordon F. Erby, am one of the plaintiffs in the foregoing pleading, that I have read the contents of the Verified Complaint and Petition for Temporary Restraining Order and Preliminary and Permanent Injunction, that the factual allegations set forth therein are true and correct to the best of my knowledge and belief, and that I am in need of the relief requested.


Gordon F. Erby

I affirm under penalty of perjury that I, Heidi S. Barshinger, am one of the plaintiffs in the foregoing pleading, that I have read the contents of the Verified Complaint and Petition for Temporary Restraining Order and Preliminary and Permanent Injunction, that the factual allegations set forth therein are true and correct to the best of my knowledge and belief, and that I am in need of the relief requested.


Heidi S. Barshinger

**GOVERNOR OF VIRGINIA**

Glenn Youngkin

PROCLAMATIONS

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COMMONWEALTH of VIRGINIA

Executive Department

Proclamation

In accordance with the provisions of Article I , Section 6, and Article, Section 5, of the Constitution of Virginia and the powers thereby vested in the Governor to call a Special Session of the General Assembly upon application of two-thirds of the members elected to each house or when the interest of the Commonwealth may so require,

I, Glenn Youngkin, Governor of Virginia, do hereby summon the members of the Senate and the House of Delegates, constituting the General Assembly of Virginia, to meet in Special Session commencing the 13th day of May, Two Thousand and Twenty-Four for the purpose of completion of the 2024-2026 biennial budget and amendments to the 2022-2024 biennial budget.

Given under my hand and under the Lesser Seal of the Commonwealth at Richmond, this 17th day of April in the year Two-Thousand and Twenty-Four in the 248th year of the Commonwealth.




Governor


Secretary of the Commonwealth

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GOVERNOR OF VIRGINIA
Glenn Youngkin

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2024 SPECIAL SESSION I

LEGISLATION NOT PREPARED BY DLS
INTRODUCED



INTRODUCED

HJ6001

24200118D

HOUSE JOINT RESOLUTION NO. 6001

Offered May 13, 2024

Prefiled May 13, 2024

Limiting legislation to be considered by the 2024 Special Session I of the General Assembly and establishing a schedule for the conduct of business coming before such Special Session.

Patron—Herring

RESOLVED by the House of Delegates, the Senate concurring, That during the 2024 Special Session I of the General Assembly, summoned by proclamation of the Governor on Wednesday, April 17, 2024 to begin Monday, May 13, 2024 at 12:00 PM, pursuant to the provisions of HJR 428, 2024 Regular Session, except with unanimous consent of the house in which the legislation is offered, no bill, joint resolution, or resolution shall be offered or considered in either house during the Special Session other than (i) Budget Bill(s) and revenue bills; (ii) single-house commending and memorial resolutions; (iii) bills, joint resolutions, or resolutions affecting the rules of procedure or schedule of business of the General Assembly, either of its houses, or any of its committees; (iv) the election of judges and other officials subject to the election of the General Assembly; or (v) appointments subject to the confirmation of the General Assembly; and, be it

RESOLVED FURTHER, That after the Special Session is convened for the first time, each body may recess from time-to-time until reconvened with at least 48 hours' notice by the respective call of the Speaker of the House of Delegates and the Chair of the Senate Committee on Rules; and, be it

RESOLVED FURTHER, That for the purposes of this resolution:

"Budget Bill(s)" means a general appropriation bill introduced that authorizes the biennial expenditure of public revenues for the period from July 1, 2022, through June 30, 2024, or July 1, 2024, through June 30, 2026; and,

"Revenue Bill(s)" means any bill, except the Budget Bill and debt bills, that increases or decreases the total revenues available for appropriation; and it be

RESOLVED FINALLY, That the 2024 Special Session I of the General Assembly shall be governed by the following procedural rules:

Rule 1. Neither house shall receive, consider, or vote on any committee amendment or floor amendment or amendment of the other house to the Budget Bill(s). No engrossment of the Budget Bill(s) shall be required in either house, and any conferences on the Budget Bill(s) shall consider, as the basis for their deliberations, the enrolled Budget Bill(s) transmitted to the Governor at the close of the 2024 Regular Session.

Rule 2. Neither house shall consider such Budget Bill(s) earlier than 48 hours after introduction, unless both houses respectively determine to proceed earlier by a vote of two-thirds of the members voting in each house. A report shall be issued concurrently with the introduction of the Budget Bill(s) that enumerates all changes to such Budget Bills compared to the enrolled versions of House Bill 29 and House Bill 30 of the 2024 Regular Session.

2024 SPECIAL SESSION I



INTRODUCED

HJ6004

24200395D

HOUSE JOINT RESOLUTION NO. 6004

Offered February 22, 2025

Relating to the scope of business that may come before the 2024 Special Session I of the General Assembly of Virginia and the procedural rules applicable to such session.

Patron—Herring

RESOLVED by the House of Delegates, the Senate concurring, That notwithstanding the limitations established by House Joint Resolution No. 6001 of the 2024 Special Session I of the General Assembly, any (i) Budget Bill or revenue bill; (ii) single-house commending or memorial resolution; (iii) bill, joint resolution, or resolution affecting the rules of procedure or schedule of business of the General Assembly, either of its houses, or any of its committees; (iv) matter relating to the election of judges and other officials subject to the election of the General Assembly; (v) appointment subject to the confirmation of the General Assembly; or (vi) bill or joint resolution addressing the impacts upon the Commonwealth, its budget, and its services due to layoffs, firings, or reductions in force by the federal government, changes to federal government programs, actions of the Department of Government Efficiency, and other actions affecting the Commonwealth relating to the federal budget may be offered and considered during the 2024 Special Session I of the General Assembly; and, be it

RESOLVED FINALLY, That the procedural rules contained in House Joint Resolution No. 6001 of the 2024 Special Session I of the General Assembly governing the 2024 Special Session I shall not be applicable beginning on February 22, 2025, except that neither house shall be permitted to consider any Budget Bill earlier than 48 hours after introduction, unless both houses respectively determine to proceed earlier by a vote of two-thirds of the members voting in each house.

2024 SPECIAL SESSION I



INTRODUCED

HI6006

24200649D

HOUSE JOINT RESOLUTION NO. 6006

Offered October 24, 2025

Relating to the scope of business that may come before the 2024 Special Session I of the General Assembly of Virginia.

Patron—Herring

RESOLVED by the House of Delegates, the Senate concurring, That notwithstanding the limitations established by House Joint Resolution No. 6001 and House Joint Resolution No. 6004 of the 2024 Special Session I of the General Assembly, any (i) Budget Bill or revenue bill; (ii) single-house commending or memorial resolution; (iii) bill, joint resolution, or resolution affecting the rules of procedure or schedule of business of the General Assembly, either of its houses, or any of its committees; (iv) matter relating to the election of judges and other officials subject to the election of the General Assembly; (v) appointment subject to the confirmation of the General Assembly; (vi) bill or joint resolution addressing the impacts upon the Commonwealth, its budget, and its services due to layoffs, firings, or reductions in force by the federal government, changes to federal government programs, actions of the Department of Government Efficiency, and other actions affecting the Commonwealth relating to the federal budget; or (vii) joint resolution proposing an amendment to the Constitution of Virginia related to reapportionment or redistricting may be offered and considered during the 2024 Special Session I of the General Assembly.



24200715D

HOUSE JOINT RESOLUTION NO. 6007

Offered October 28, 2025

Proposing an amendment to Section 6 of Article II of the Constitution of Virginia and proposing an amendment to the Constitution of Virginia by adding in the Schedule a section numbered 6, relating to apportionment; congressional districts; limited authority of the General Assembly to modify.

Patrons—Willett, Convirs-Fowler, Price and Simon

Referred to Committee on Privileges and Elections

RESOLVED by the House of Delegates, the Senate concurring, a majority of the members elected to each house agreeing, That the following amendments to the Constitution of Virginia be, and the same hereby are, proposed and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates for its concurrence in conformity with the provisions of Section 1 of Article XII of the Constitution of Virginia, namely:

Amend Section 6 of Article II of the Constitution of Virginia and amend the Constitution of Virginia by adding in the Schedule a section numbered 6 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 pursuant to *this section and* Section 6-A of this Constitution. 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. Every electoral district shall be drawn in accordance with the requirements of federal and state laws that address racial and ethnic fairness, including the Equal Protection Clause of the Fourteenth Amendment to the Constitution of the United States and provisions of the Voting Rights Act of 1965, as amended, and judicial decisions interpreting such laws. Districts shall provide, where practicable, opportunities for racial and ethnic communities to elect candidates of their choice.

The Commonwealth shall be reapportioned into electoral districts in accordance with this section and Section 6-A in the year 2021 and every ten years thereafter, *except that the General Assembly shall be authorized to modify one or more congressional districts at any point following the adoption of a decennial reapportionment law, but prior to the next decennial census, in the event that any State of the United States of America conducts a redistricting of such state's congressional districts at any point following that state's adoption of a decennial reapportionment law for any purpose other than (i) the completion of the state's decennial redistricting in response to a federal census and reapportionment mandated by the Constitution of the United States and established in federal law or (ii) as ordered by any state or federal court to remedy an unlawful or unconstitutional district map.*

Any such decennial reapportionment law, *or reapportionment law modifying one or more congressional districts*, 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~~ *any* 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.

SCHEDULE

Section 6. Application and duration of certain redistricting amendments.

The authorization in Article II, Section 6 authorizing the General Assembly to modify one or more congressional districts at any point following adoption of a decennial reapportionment law in the event that any State of the United States of America conducts a redistricting of such state's congressional districts at any point following that state's adoption of a decennial reapportionment law shall be limited to making such modifications between January 1, 2025, and October 31, 2030, in response to actions taken by another state between January 1, 2025, and October 31, 2030.

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HJ6007

Constitutional amendment; apportionment, congress dists, limited authority of the GA to modify.

Status

In Committee

Patrons | All Patrons

Introduced by: Rodney T. Willett (Chief Patron)

Summary As Introduced

Constitutional amendment (first reference); apportionment; congressional districts; limited authority of the General Assembly to modify. Proposes an amendment to the Constitution of Virginia related to the establishment of congressional districts. The amendment provides explicit authority for the General Assembly to modify one or more congressional districts, outside of the standard decennial redistricting cycle, in the event that any other state conducts a redistricting of the state's congressional districts outside of the standard decennial redistricting cycle or for any purpose other than complying with a state or federal court order to remedy an unlawful or unconstitutional district map. Additionally, an amendment to the Schedule of the Constitution of Virginia is proposed to specify the period of time to which such authorization is limited.

Bill Versions		
House	Introduced	PDF
History		
10/28/2025	House	Presented and ordered printed 24200715D
10/28/2025	House	Referred to Committee on Privileges and Elections



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Jason S. Miyares
Attorney General

October 28, 2025

202 North Ninth Street
Richmond, Virginia 23219
804-786-2071
Fax 804-786-1991
Virginia Relay Services
800-828-1120
7-1-1

The Honorable Terry G. Kilgore
Virginia House of Delegates
General Assembly Building, Room 1007
201 North Ninth Street
Richmond, Virginia 23219

Dear Delegate Kilgore:

I am responding to your request for an official advisory Opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issue Presented

You inquire, for purposes of Article XII, § 1 of the Constitution of Virginia, when the “next general election of members of the House of Delegates” is to occur.

Response

It is my opinion that, as of the date of this Opinion, for purposes of Article XII, § 1, the “next general election” for electing the House of Delegates will occur in 2027.

Applicable Law and Discussion

Article XII, § 1 of the Constitution of Virginia governs the process for amending Virginia’s Constitution. It provides, in full, as follows:

Any amendment or amendments to this Constitution may be proposed in the Senate or House of Delegates, and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amendment or amendments shall be entered on their journals, the name of each member and how he voted to be recorded, and referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates. If at such regular session or any subsequent special session of that General Assembly the proposed amendment or amendments shall be agreed to by a majority of all the members elected to each house, then it shall be the duty of the General Assembly to submit such proposed amendment or amendments to the voters qualified to vote in elections by the people, in such manner as it shall prescribe and not sooner than ninety days after final passage by the General Assembly. If a majority of those voting vote in favor of any amendment, it shall become part of the Constitution on the date prescribed by the General Assembly in submitting the amendment to the voters.^[1]

¹ VA. CONST. art. XII, § 1. *See also* VA. CODE ANN. § 30-19 (2018).

“[S]trict compliance with these mandatory provisions is required in order that all proposed constitutional amendments shall receive the deliberate consideration and careful scrutiny that they deserve.”² You inquire regarding the requirement that the resolution approving a proposed amendment be “referred to the General Assembly at its first regular session held after the next general election of members of the House of Delegates.”

“It is a general rule that the words of a Constitution are to be understood in the sense in which they are popularly employed, unless the context or the very nature of the subject indicates otherwise.”³ Thus, “we are guided by the principle that the Constitution was written to be understood by the voters;”⁴ and “[w]hen constitutional language is clear and unambiguous, a court must give the language its plain meaning”⁵ As such, “[t]he same rules which govern the construction of statutes[] are applicable to the construction of constitutions, and the meaning and purpose of [a section] are to be elicited from the terms employed therein, if possible, calling to our aid the ordinary rules of grammar.”⁶ Constitutional provisions “should be interpreted so as to carry out the general principles of the government and not defeat them.”⁷

Article XII, § 1 clearly contemplates that there will be an intervening general election between the proposal of the amendment by one General Assembly and the referral of the amendment to the subsequent General Assembly.⁸ As commonly understood, a “general election” is “[a]n election that occurs at a regular interval of time” or “[an] election for all seats, as contrasted with a [special] election.”⁹ An election is “[t]he *process* of selecting a person to occupy an office”¹⁰

Under Virginia law, the entire membership of Virginia House of Delegates is elected every two years, in odd-numbered years, for terms beginning in the following even-numbered year.¹¹ In accordance with law, Virginia voters are currently casting their ballots for the candidates they prefer to represent them as delegates for the term that begins in 2026—and have been doing so for weeks.¹²

A regular session of the General Assembly will commence January 14, 2026.¹³ Although November 4, 2025 is an election *day* in the Commonwealth it, standing alone, does not constitute the “next general election”

² *Coleman v. Pross*, 219 Va. 143, 154 (1978).

³ *Old Dominion Comm. for Fair Util. Rates v. State Corp. Comm’n*, 294 Va. 168, 185 (2017) (quoting *Howell v. McAuliffe*, 292 Va. 320, 368 (2016)).

⁴ *Id.* (quoting *District of Columbia v. Heller*, 554 U.S. 570, 576-77 (2008)).

⁵ *Scott v. Commonwealth*, 247 Va. 379, 384 (1994).

⁶ *Moore v. Pullem*, 150 Va. 174, 195-96 (1928) (internal citations omitted).

⁷ *Id.* at 194.

⁸ See *Coleman*, 219 Va. at 154 (“Under the unambiguous language of Article XII, Section 1, if any constitutional amendments are proposed in one house, ‘the same’ must be agreed to by a majority of the members elected to each house, referred to the next regular session after the *intervening* general election of House of Delegates members, agreed to by a majority of the members elected to each house, and submitted to the qualified voters.” (emphasis added)). See A.E. DICK HOWARD, II COMMENTARIES ON THE CONSTITUTION OF VIRGINIA 1170 (referring to the constitutional requirement as an “intervening election”).

⁹ BLACK’S LAW DICTIONARY 655 (11th ed. 2019). See also WEBSTER’S SEVENTH NEW COLLEGIATE DICTIONARY 348 (1963) (defining “general election” as “an election usu[ally] held at regular intervals in which candidates are chosen in all or most constituencies of a nation or state”).

¹⁰ BLACK’S LAW DICTIONARY, *supra*, at 654 (emphasis added). See also WEBSTER’S SEVENTH NEW COLLEGIATE DICTIONARY, *supra*, at 266 (defining “election” as “an act or process of electing”).

¹¹ See VA. CONST. art. IV, § 3; VA. CODE ANN. § 24.2-215 (2023).

¹² See VA. CODE ANN. § 24.2-701.1(A) (2023).

¹³ See VA. CONST. art. IV, § 6.

under Article XII, § 1.¹⁴ Under current Virginia law, the election voting process in Virginia spans 45 days.¹⁵ The closing of the polls on November 4, 2025 will be the culmination of the ongoing election process, which commenced September 19, 2025.¹⁶ Because “[t]he term ‘next’ has reference to that which comes after[.]”¹⁷ it does not refer to an event that is in progress.¹⁸ Accordingly, because a general election of delegates is already underway, the November 4th culmination of this 2025 election cannot be deemed to be the “*next* general election.”¹⁹ It is the current general election.

I therefore conclude that the next general election of the members of the House of Delegates for purposes of amending Virginia’s Constitution will be in 2027, two years from the ongoing 2025 general election. Accordingly, only those proposed constitutional amendments that were approved prior to September 19, 2025, are ones that can be referred to the regular session that begins in January 2026.²⁰

¹⁴ The conceivably narrower definition of “general election” provided in Code § 24.2-101 does not control here. Not only is this definition limited to the term “[a]s used in [Title 24.2]” and only applies “unless the context requires a different meaning,” VA. CODE ANN. § 24.2-101 (Supp. 2025), but a statute also cannot alter, redefine, or supersede a constitutional provision. See *AGCS Marine Ins. Co. v. Arlington Cnty.*, 293 Va. 469, 478 n.4 (2017) (noting that a statutory definition of “public uses” for purposes of acquiring property through eminent domain did not “limit[] inverse condemnation liability for damage to personal property” under Article I, § 11 of the Virginia Constitution). Cf. WEBSTER’S THIRD NEW INTERNATIONAL DICTIONARY (Unabridged) 732 (separately defining “election” and “election day”).

¹⁵ VA. CODE ANN. § 24.2-701.1(A).

¹⁶ Cf. *Pierce v. N.C. State Bd. of Elections*, 97 F.4th 194, 226-27 (4th Cir. 2024) (noting, in the context of the 2024 North Carolina Senate primary election, that the election was “underway” and stating that, with early voting occurring, “[t]he election is not merely ‘close[.]’ or even ‘imminen[t]’—it is happening right now” (alteration in original) (quoting *Purcell v. Gonzalez*, 549 U.S. 1, 5 (2006))); *Wise v. Circosta*, 978 F.3d 93, 96 (4th Cir. 2020) (describing, in October 2020, the 2020 North Carolina general election, which allowed for early voting beginning October 15, 2020, as “an ongoing election”); *New Georgia Project v. Raffensperger*, 976 F.3d 1278, 1283 (11th Cir. 2020) (noting, in October 2020, that “we are not on the eve of the election—we are in the middle of it, with absentee ballots already printed and mailed”); *Texas All. for Retired Americans v. Hughs*, 976 F.3d 564, 567 (5th Cir. 2020) (equating eighteen days before the start of mid-October early voting with “the eve of an election”); 2021 Op. Va. Att’y Gen. 63, 66 (concluding that “locations . . . that are used as the designated location for early voting are considered ‘polling places’” for purposes of the firearm restriction imposed under § 24.2-604(A)(iv)).

¹⁷ *United States v. Fisher*, 151 F. Supp. 607, 608 (E.D. Wis. 1957) (quoting *Gandy v. Thomas*, 66 S.W.2d 449, 450 (Tex. Civ. App. 1933)). See also *Osborn v. Rogers*, 19 N.J. Eq. 429, 431 (Prerog. Ct. 1868) (equating “next” and “subsequent”); *Exch. Bank of Oakfield v. Odum*, 90 S.E. 977 (Ga. 1916) (giving effect to “the word ‘next,’ which means ‘in the nearest time,’ ‘just after,’ ‘immediately following’”).

¹⁸ See, e.g., *Gandy*, 66 S.W.2d at 450-51 (“The ‘next term’ of the county court . . . is not thought to mean the ‘current term’ then in session . . .”); *Heywood v. Georgia*, 54 S.E. 187, 187 (Ga. 1906) (rejecting the argument “that ‘next’ means nearest, and that the nearest term is the one already in session” because “[t]his is a strained interpretation of the legislative intent, which we do not feel authorized to follow”); *State v. Breaw*, 78 P. 896, 896 (Or. 1904) (stating that the phrase “the next term of the court” as used in a statute “clearly means the next following term, and not the current one”); *Fisher*, 151 F. Supp. at 608 (holding that “the word ‘next’ as used in the statute means the first grand jury summoned and impaneled after the filing of the complaint, and not the one then in session”); *Schrom v. Cramer*, 275 P.2d 979, 981-82 (Idaho 1954) (“[T]he phrase ‘the next term of the court’ . . . excludes the term of court then current and means the next ensuing term.”); *Palka v. Walker*, 198 A. 265, 266 (Conn. 1938) (“The word ‘next’ . . . does not refer to a session of the General Assembly in existence . . . but to one which begins thereafter.”).

¹⁹ See Howard, *supra*, at 1172 (“A proposed amendment, once agreed to by the Assembly, must then be referred to its first regular session held after the next *ensuing* general election of members of the House of Delegates.” (emphasis added)).

²⁰ I am aware of several prior Opinions of this Office addressing the application of Article XII, § 1. See, e.g., 1981-82 Op. Va. Att’y Gen. 83; 1981-82 Op. Va. Att’y Gen. 84; 1981-82 Op. Va. Att’y Gen. 85; 1983-84 Op. Va. Att’y Gen. 53; 1983-84 Op. Va. Att’y Gen. 173. The conclusions those Opinions reach are based on the specific facts existing and presented at the time. Significantly, they all predate the adoption of the current 45-day voting process. See 2019 Va. Acts ch. 668. None counsels a different conclusion than the one stated herein.

The Constitution of Virginia is built on the foundation that “all power is vested in, and consequently derived from, the people,” and it therefore ensures that elected officials remain accountable and “at all times amenable to [the people].”²¹ The conclusion of this Opinion promotes accountability to the people, for prior to casting their votes in the election, the voters will be able to review incumbent delegates’ votes on any proposed amendments, which Article XII requires to be recorded by name.²² Although not dispositive, statements made during the debates on the current Constitution support this view. As explained by one Senator, “[t]he people elect the members of the General Assembly. Section 1 of [Article XII] provides, as do the provisions of the current Constitution, that an election must intervene before the General Assembly can act again.”²³ As stated by a member of the House of Delegates, the mandated intervening election serves to “get the sentiment of the people on an amendment [the delegates] had acted on previously.”²⁴

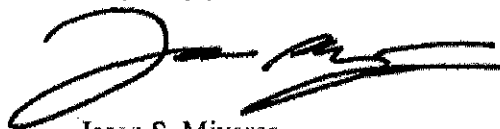
Virginia law explicitly expresses this underlying policy elsewhere; by statute, circuit court clerks must post notice of any proposed amendment “not later than three months prior to the next ensuing general election of members of the House of Delegates.”²⁵ Allowing an amendment proposed while a general election is underway to be referred for consideration during the following regular session—here the 2026 regular session—undermines the voice of Virginia voters in the amendment process and violates foundational principles of Virginia constitutional law.²⁶ The current 2025 general election, therefore, cannot serve as the constitutionally required intervening election for any constitutional amendments proposed after September 19, 2025.

Conclusion

Accordingly, it is my opinion that, as of the date of this Opinion, for purposes of Article XII, § 1, the “next general election” for electing the House of Delegates will occur in 2027.

With kindest regards, I am

Very truly yours,



Jason S. Miyares
Attorney General

²¹ VA. CONST. art. I, § 2.

²² “The constitution must be viewed and construed as a whole . . .” *Carlisle v. Hassan*, 199 Va. 771, 776 (1958) (citing *Barbour v. Grimsley*, 107 Va. 814 (1907)).

²³ PROCEEDINGS AND DEBATES OF THE SENATE OF VIRGINIA PERTAINING TO AMENDMENT OF THE CONSTITUTION, p. 100 (1971).

²⁴ PROCEEDINGS AND DEBATES OF THE VIRGINIA HOUSE OF DELEGATES PERTAINING TO AMENDMENT OF THE CONSTITUTION, p. 498 (1971).

²⁵ VA. CODE ANN. § 30-13 (2018).

²⁶ See also VA. CONST. art. XII, § 2 (requiring qualified voters to approve constitutional revisions proposed via constitutional convention).