



*COMMONWEALTH of VIRGINIA*  
*Office of the Governor*

Ralph S. Northam  
Governor

November 5, 2020

TO: HOUSE OF DELEGATES  
  
HOUSE BILL NO. 5005

I am grateful to the House of Delegates and the Senate of Virginia for your dedicated work leading to a budget that addresses the critical issues that we face during the COVID-19 pandemic. I approve the general purpose of this bill, but I am returning it with a request for the adoption of ten amendments.

These changes are important because the economic effects of COVID-19 remain unclear and much of its potential long-term impact will depend on events yet to come—such as the successful development and distribution of a vaccine—and possible changes to the pandemic response at the national level. Both of these critical next steps are profoundly uncertain right now. Amidst so much uncertainty at a national level, Virginians and our economy must remain vigilant and takes steps to maintain financial flexibility.

I am pleased that the budget you returned to me reflects general agreement with the plan I put forth to balance spending against a lower revenue forecast. We may have to revisit some of these decisions after the next revenue forecast is complete.

I am making one recommendation for additional one-time spending: I propose \$1 million to fund an independent investigation into the culture at the Virginia Military Institute. This is necessary to provide us with the facts needed to craft a path forward for the Institute. This budget amendment would reduce the unappropriated general fund balance from \$303.2 million to \$302.2 million.

I propose to eliminate capital spending for the Nimmo Parkway in Virginia Beach and a new airport hangar in Accomack. These projects need to go through Virginia's existing review processes that allocate funding to transportation projects. These public reviews allow for full transparency by weighing different transportation projects against each other, but these projects instead aim to "jump the line." They do not warrant special treatment, and they should face the same level of review as every other transportation project.

HOUSE OF DELEGATES

November 5, 2020

Page 2

In addition to these three amendments, I also propose seven “language-only amendments” that are covered in the attachment.

This budget reflects the sentiment I expressed to you last spring as the pandemic took hold in the United States: “While these proposals present difficult decisions today, we may face tougher choices tomorrow.” This budget includes difficult but important actions that reflect many months of the pandemic behind us, and that prepare for much uncertainty ahead. While we may face tougher choices in the days ahead, the decisions we have made together in this budget place us on a course to manage our resources in a responsible manner. Even as we proceed with caution, we should celebrate the fact that this budget helps shape Virginia’s future with important investments in healthcare, in education, in our workforce, and more.

I thank you for your support and cooperation and I ask that you adopt these final recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Ralph S. Northam", with a long horizontal flourish extending to the right.

Ralph S. Northam

Enclosures

# **2020 Special Session**

*Description  
of  
HB 5005 Executive Amendments*

**Amendment 1: Update to Covid Phase 3 to allow for temporary mask removal for the purpose of facials**

**Item 127**

**Commerce and Trade**

Department of Professional and Occupational  
Regulation

Language

**Description of Governor's Amendment:**

Amends language to state that the applicable guidelines authorize the licensed individuals to practice safely and effectively, and may require enhanced safety precautions in the absence of a customer face covering.

---

**Amendment 2: COVID-19 Drug Research Development**

**Item 135**

**Commerce and Trade**

Virginia Innovation Partnership Authority

Language

**Description of Governor's Amendment:**

Amends language associated with the establishment of a one-time Virginia Biosciences Health Research Corporation grant program to support the acceleration of clinical testing of a therapeutic drug that treats clinical symptoms caused by COVID-19 to expand the criteria for access to the grant fund.

---

**Amendment 3: Amend language on priority for COVID testing**

**Item 299**

**Health and Human Resources**

Department of Health

Language

**Description of Governor's Amendment:**

Removes priority testing for residents and employees of nursing facilities or assisted living facilities for COVID-19. This will allow VDH to rely on their current process for planning and prioritizing COVID-19 vaccines and treatments that already includes nursing facilities and assisted living facilities.

---

**2020 Special Session Executive Amendments and Vetoes (HB 5005)**

---

**Amendment 4: Continue the Water Quality Enhancement Fee**

**Item 377**

**Natural Resources**

Department of Environmental Quality

Language

**Description of Governor's Amendment:**

Continues the Water Quality Enhancement Fee. Also directs the Department of Environmental Quality to convene a workgroup of stakeholders to produce recommendations by July 1, 2021, for the Governor and General Assembly to improve the long-term sustainability of the fee and DEQ's oversight of nutrient credit use in Virginia.

---

**Amendment 5: Funding and language to establish VMI Investigation Team**

**Item 479**

**Central Appropriations**

**FY 20-21**

**FY 21-22**

Central Appropriations

\$1,000,000

\$0 GF

**Description of Governor's Amendment:**

Provides funding for an independent, third-party investigation of the culture, traditions, policies, and practices of the Virginia Military Institute.

---

**Amendment 6: Amend Coronavirus Relief Fund Allocation Language**

**Item 479.10**

**Central Appropriations**

Central Appropriations

Language

**Description of Governor's Amendment:**

Adjusts Coronavirus Relief Fund allocations to be consistent with amounts already approved or executed and modifies other language provisions.

---

*2020 Special Session Executive Amendments and Vetoes (HB 5005)*

---

**Amendment 7: Remove funding for Accomack Regional Airport Hangar project**

**Item C-61.50**

<b>Virginia Commercial Spaceflight Authority</b>	<b>FY 20-21</b>	<b>FY 21-22</b>
Central Capital Outlay	(\$2,000,000)	\$0 NGF

**Description of Governor's Amendment:**

Eliminates funding for the Accomack Regional Airport Hangar project.

---

**Amendment 8: Remove funding for Virginia Beach Access Improvement project**

**Item C-72.10**

<b>Central Appropriations</b>	<b>FY 20-21</b>	<b>FY 21-22</b>
Central Capital Outlay	(\$10,000,000)	\$0 NGF

**Description of Governor's Amendment:**

Eliminates funding for the Virginia Beach Nimmo Parkway access project.

---

**Amendment 9: DMV Office Relocations**

**Item C-73**

**Central Appropriations**

Central Capital Outlay Language

**Description of Governor's Amendment:**

Adds the Charlottesville and Smithfield Department of Motor Vehicles Customer Service Centers to the list of authorized long-term leases for the purpose of relocating these facilities to find more cost-effective lease space and lease space that can provide adequate accommodations for patrons and staff.

---

**Amendment 10: Redistricting Commission**

**Item 4-14**

**General Provisions**

Effective Date

Language

**Description of Governor's Amendment:**

Provides for the implementation of the constitutional amendment establishing the Virginia Redistricting Commission, effective November 15, 2020, contingent upon the passage of the amendment by voters on the Tuesday after the first Monday in November 2020.

---

# *2020 Special Session I*

*HB 5005 Executive Amendments*

*2020 Special Session Executive Amendments - HB 5005*

**Amendment 1: Update to Covid Phase 3 to allow for temporary mask removal for the purpose of facials  
Item 127**

**Commerce and Trade**

Department of Professional and Occupational  
Regulation

Language

**Language:**

Page 46, strike lines 13 through 22, and insert:

“D. The COVID-19 Phase 3 or later Personal Care and Personal Grooming Services guidelines authorize any individual licensed to practice under Chapter 7 of Title 54.1 of the Code of Virginia to provide services effectively and safely. The guidelines may require enhanced safety precautions in the absence of a customer face covering, including requiring the licensee to wear a face shield and/or utilize some other similar barrier.”

**Explanation:**

(This amendment amends language to state that the applicable guidelines authorize the licensed individuals to practice safely and effectively, and may require enhanced safety precautions in the absence of a customer face covering.)

---

## *2020 Special Session Executive Amendments - HB 5005*

### **Amendment 2: COVID-19 Drug Research Development**

#### **Item 135**

#### **Commerce and Trade**

Virginia Innovation Partnership Authority

Language

#### **Language:**

Page 54, strike lines 21-32 and insert:

“9.a. The VBHRC shall administer a one-time grant program designed to support the acceleration of clinical testing of pharmaceutical agents that address the COVID-19 pandemic, specifically a pharmaceutical agent directed at preventing or ameliorating the course of infection or the acute or long term symptoms of COVID-19. VBHRC shall consult with subject matter experts in the healthcare industry or academia to develop criteria for awarding funds provided in paragraph P.3. of this item to one or more qualifying grantees. At a minimum, these criteria must include: (i) the company is either headquartered in Virginia or has a clinical research facility in Virginia and the clinical activity is creating investment or jobs in Virginia; and (ii) the company is actively conducting Phase 1, 2, or 3 clinical trial of a pharmaceutical agent described above. In awarding these funds, the board of directors of the VBHRC may waive the requirements that (i) two of the participating institutions are actively and significantly involved in collaborating on the research, and (ii) funding be matched at least dollar-for-dollar by funding provided by private entities, foundations, and other governmental sources”.

#### **Explanation:**

(Amends language associated with the establishment of a one-time Virginia Biosciences Health Research Corporation grant program to support the acceleration of clinical testing of a therapeutic drug that treats clinical symptoms caused by COVID-19 to expand the criteria for access to the grant fund.)

---

*2020 Special Session Executive Amendments - HB 5005*

**Amendment 3: Amend language on priority for COVID testing**

**Item 299**

**Health and Human Resources**

Department of Health

Language

**Language:**

Page 163, line 26, strike “priority for”.

**Explanation:**

(This amendment removes priority testing for residents and employees of nursing facilities or assisted living facilities for COVID-19. This will allow VDH to rely on their current process for planning and prioritizing COVID-19 vaccines and treatments that already includes nursing facilities and assisted living facilities.)

---

*2020 Special Session Executive Amendments - HB 5005*

**Amendment 4: Continue the Water Quality Enhancement Fee**

**Item 377**

**Natural Resources**

Department of Environmental Quality

Language

**Language:**

Page 250, strike lines 15-24, and insert:

“L. Notwithstanding § 62.1-44.15:35, Code of Virginia, regardless of whether or not the effective date of regulations establishing application fees in accordance with § 62.1-44.19:20, Code of Virginia, has occurred, the credit provider shall pay the Department a water quality enhancement fee equal to six percent of the amount paid by the applicant for the credits. Such fee shall be deposited into the Virginia Stormwater Management Fund established by § 62.1-44.15:29, Code of Virginia. The Department shall convene a workgroup of affected stakeholders, including representatives from the regulated industry and members of the public, to produce recommendations for the Governor and General Assembly to improve the long-term sustainability of the water quality enhancement fee and Department oversight of nutrient credit use in the Commonwealth. Such recommendations shall be provided to the Governor and General Assembly by July 1, 2021.”

**Explanation:**

(This amendment continues the Water Quality Enhancement Fee. Also directs the Department of Environmental Quality to convene a workgroup of stakeholders to produce recommendations by July 1, 2021, for the Governor and General Assembly to improve the long-term sustainability of the fee and DEQ’s oversight of nutrient credit use in Virginia.)

---

*2020 Special Session Executive Amendments - HB 5005*

**Amendment 5: Funding and language to establish VMI Investigation Team**

**Item 479**

<b>Central Appropriations</b>	<b>FY 20-21</b>	<b>FY 21-22</b>
Central Appropriations	\$1,000,000	\$0 GF

**Language:**

Page 302, line 50, strike “\$9,769,500” and insert “\$10,769,500”.

Page 303, Line 6, strike “\$3,069,500” and insert “\$4,069,500”

Page 307, after line 18 insert:

“Q. The appropriations in this item include \$1,000,000 from the general fund in the first year to conduct an independent, third-party investigation of the culture, traditions, policies, and practices of the Virginia Military Institute. The investigative team shall report its findings and recommendations to the State Council of Higher Education for Virginia. Investigative notes, draft reports, and other correspondence and information furnished in confidence with respect to this investigation are exempt from disclosure under the Virginia Freedom of Information Act, section 2.2-3700 et seq. of the Code of Virginia.”

**Explanation:**

(This amendment provides funding for an independent, third-party investigation of the culture, traditions, policies, and practices of the Virginia Military Institute.)

---

**2020 Special Session Executive Amendments - HB 5005**

**Amendment 6: Amend Coronavirus Relief Fund Allocation Language**

**Item 479.10**

**Central Appropriations**

Central Appropriations

Language

**Language:**

Page 307, line 28, strike “Any allocations of”.

Page 307, strike lines 29 through 35.

Page 307, line 36, unstrike “2” and strike “3”.

Page 307, line 48, unstrike “3” and strike “4”.

Page 307, line 52, unstrike “4” and strike “5”.

Page 308, strike lines 8 through 27 and insert:

<b>Item</b>	<b>Amount Allocated as of 7/1/2020</b>
Allocations to Localities	\$644,573,383
FY20 Agency-based Requests	\$80,480,698
DGS - Consolidated Labs	\$6,052,673
DHCD - Emergency Housing for Homeless	\$5,528,998
DHCD - Mortgage and Rental Assistance	\$10,000,000
VDEM - PPE	\$97,000,000
VDEM - Testing	\$42,338,400
VDEM - Other	\$33,722,001
VDH - Contract tracing/UVA Equipment	\$59,157,614
VDH - Replace deficit authorization	\$3,291,300
<b>Total</b>	<b>\$982,145,067</b>

Page 308, line 28, strike “\$1,215,214,399” and insert “\$2,127,357,769”.

Page 308, strike lines 32 through 48.

Page 309, strike lines 1 through 28 and insert:

<b>Item</b>	<b>Amount</b>
Allocations to Localities	\$644,573,383
Direct utility customer assistance for SCC jurisdictional utilities	\$60,000,000
Direct utility customer assistance for other utilities	\$60,000,000
DHCD - Emergency Housing for Homeless	\$3,270,000

**2020 Special Session Executive Amendments - HB 5005**

DOC/DJJ - PPE, sanitization, medical overtime	\$6,642,352
DMAS - Additional hospital reimbursements for eligible COVID-19 costs	\$60,000,000
DMAS - Long-term care facilities	\$55,640,872
DMAS - PPE for Personal Care Attendants	\$9,256,178
DMAS - Hazard pay for home health workers	\$73,056,734
DMAS - Retainer payments for Medicaid DD Waiver Day Support providers	\$25,000,000
Higher Education - PPE, Virtual Education, Cleaning , Telework, Other COVID Costs	\$116,261,410
State Museums and Higher Education Centers - PPE, Virtual Education, Cleaning , Telework, Other COVID Costs	\$834,013
K-12 - Costs for Re-Opening Schools	\$220,798,208
DSS - Food security - Expand emergency food supply package	\$650,000
VDACS - Food security - Agriculture surplus & emergency food	\$1,211,953
VDEM - Food security - 1 million MREs	\$2,000,000
DSS - Childcare Provider Stabilization Funds	\$58,341,000
DSS - Virginia Federation of Food Banks - \$1.0 million per region	\$7,000,000
Statewide - PPE Plan	\$42,112,285
Statewide - Testing and Contact Tracing	\$71,829,059
Statewide - state agencies telework, PPE/sanitizing, DOLI regulation compliance and other eligible operational cost increases	\$31,580,652
VDH - Point of Care Antigen Testing	\$16,010,500
DSBSD - Small business assistance grants	\$70,000,000
VDEM - Technical assistance, public education and preparedness for COVID-19 pandemic response	\$41,769,113
DHCD - Mortgage and Rental Assistance	\$40,000,000
DHCD - Mortgage and Rental Assistance supplement	\$12,000,000
DHCD - broadband accessibility	\$30,000,000
VEC - Unemployment Assistance	\$210,000,000
UVA Medical Center – capital, PPE, testing, education	\$3,442,283
VCU Hospital – capital, PPE, testing, education	\$11,333,374
VDH - Executive Order enforcement	\$1,298,038
DBHDS - hospital census support	\$2,853,215
Carilion serology study	\$566,309
VDH - Vaccination Program	\$22,052,445

## *2020 Special Session Executive Amendments - HB 5005*

DBHDS - Hazard Pay	\$669,312
VDH - additional testing needs - One Lab	\$9,929,838
VDH - agreement with Unite Us	\$10,000,000
VDH - DocuSign subscription	\$192,250
VDH - COVID-19 communications Strategy	\$3,450,000
VDH - sample testing costs, staffing, overtime	\$6,632,255
VDH - Virginia Association of Free and Charitable Clinics (VAFCC)	\$3,000,000
VDH - community mitigation efforts	\$41,019
VCCS - training vouchers for unemployed	\$30,000,000
DSBSD - small business assistance grants - additional funds for Rebuild Virginia	\$30,000,000
DVS - reimburse COVID-19 expenses for PPE, sanitization, medical overtime	\$59,719
SCHEV - payment to private institutions of higher education	\$22,000,000
<b>Total</b>	<b>\$2,127,357,769</b>

Page 309, strike lines 29 through 51 and insert:

“3.a. The allocations in this item include \$60,000,000 the first year from the Coronavirus Relief Funds cited in paragraph B.2. above to be used to help provide direct assistance to jurisdictional utility customers with accounts over 30 days in arrears. In order to be eligible for the funds provided in this paragraph, the jurisdictional utilities must be subject to the utility disconnection moratorium established in Item 4-14, clause 7.a. of this act. The State Corporation Commission shall establish an application process in order to distribute funds directly to utilities for the purpose of efficiently providing direct assistance to customers. Utilities shall certify upon application to the State Corporation Commission, that funds will be utilized in accordance with the CARES act. The Commission shall award funds in a manner that will provide direct assistance to customers with accounts over 60 days in arrears prior to awarding funds to subsidize customer accounts 30 days in arrears. Any federal Coronavirus Relief Funds from the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) provided pursuant to this paragraph shall exclude phase II utilities who provided the forgiveness of jurisdictional customer balances as specified in Item 4-14, clause 7, paragraph j. of this act. Notwithstanding § 2.2-4002, Code of Virginia, the provisions contained in this paragraph 5.a. establishing the utility direct assistance program shall not be subject to the Administrative Process Act.

b. Upon receipt of any funds provided in paragraph 3.a., utilities shall create separate COVID-19 Utility Assistance Funds and record direct assistance payments to customers on their books in accordance with applicable accounting standards. Utilities may not direct any funds provided in paragraph 5.a. to new deposits, down payments, fees, late fees, interest charges, or penalties. Utilities may require the customer to attest to the utility or to a third party chosen by the utility that the customer has experienced a financial hardship resulting directly or indirectly from the public health emergency or that they have experienced a hardship to pay during the public health emergency prior to receiving direct assistance from the utility's COVID-19 Utility Assistance Fund. While utilities may require attestation of such hardship, it may be implied that arrearages accrued over 30

## *2020 Special Session Executive Amendments - HB 5005*

days for customer nonpayment of bills, for which federal relief funds shall be used for direct subsidy payments on behalf of customers pursuant to Item 4-14, paragraph d. of this act., were incurred as a financial hardship created by the pandemic. Utilities shall reflect the direct assistance payment on an eligible customer's monthly bill, after the funds are applied to the customer's account. Utility customers may only receive a direct payment subsidy from the utility's COVID-19 Utility Assistance Fund once.

c. The Director of the Department of Planning and Budget shall distribute funds to the State Corporation Commission within 30 days of the passage of this act. Prior to any distribution from the amounts appropriated in paragraph 3.a. of this item, the State Corporation Commission may seek guidance from the Department of Planning and Budget and any other relevant agencies to verify the jurisdictional utilities that are eligible to receive funds under this appropriation based on the most recently published guidance from the United States Department of the Treasury.”

Page 310, strike lines 1 through 58.

Page 311, strike lines 1 through 56.

Page 312, strike lines 1 through 32.

Page 312, strike lines 51 through 56 and insert:

“D. 1. If, prior to the expiration of federal Coronavirus Relief Fund amounts, the Governor determines that any of the amounts outlined in paragraph B. of this item cannot be spent for the purposes outlined, he shall have the authority to shift unspent allocations first to any other purpose outlined in Paragraph B; however, if he determines that no additional need exists for the allocations in paragraph B, he may authorize the remaining amounts to be used for other qualifying expenses pursuant to federal guidelines.

2. If, after December 30, 2020, but prior to the required return of unspent federal Coronavirus Relief Fund amounts to the federal government, the Governor determines that unspent allocations remain, such amounts shall be transferred to the Unemployment Compensation Fund established pursuant to § 60.2-300 or to other eligible expenses authorized in paragraph B. of this item pursuant to federal guidelines. If, after the expiration of federal Coronavirus Relief Fund amounts, federal guidelines allow for the shifting of allocated amounts, the Governor shall have the authority to reclassify such amounts to eligible expenses in order to maximize the Commonwealth’s use of the funds. Any such reclassification of funds shall be reported to the Chairs of the House Appropriations and Senate Finance and Appropriations Committees.”

Page 313, line 1, strike “or C.” and insert C, or D.”

Page 313, strike lines 9 through 18.

### **Explanation:**

(This amendment adjusts Coronavirus Relief Fund allocations to be consistent with amounts already approved or executed and modifies other language provisions.)

---

*2020 Special Session Executive Amendments - HB 5005*

**Amendment 7: Remove funding for Accomack Regional Airport Hangar project**

**Item C-61.50**

<b>Virginia Commercial Spaceflight Authority</b>	<b>FY 20-21</b>	<b>FY 21-22</b>
Central Capital Outlay	(\$2,000,000)	\$0 NGF

**Language:**

Page 338, strike lines 2 through 7.

**Explanation:**

(This amendment eliminates funding for the Accomack Regional Airport Hangar project.)

---

*2020 Special Session Executive Amendments - HB 5005*

**Amendment 8: Remove funding for Virginia Beach Access Improvement project**

**Item C-72.10**

<b>Central Appropriations</b>	<b>FY 20-21</b>	<b>FY 21-22</b>
Central Capital Outlay	(\$10,000,000)	\$0 NGF

**Language:**  
Page 341, strike lines 2 through 10.

**Explanation:**  
(This amendment eliminates funding for the Virginia Beach Nimmo Parkway access project.)

---

## *2020 Special Session Executive Amendments - HB 5005*

### **Amendment 9: DMV Office Relocations**

#### **Item C-73**

#### **Central Appropriations**

Central Capital Outlay

Language

#### **Language:**

Page 341, line 18, strike “Not Set Out” and insert:

“A. The Department of General Services is authorized to enter into long-term leases as follows:

1. On behalf of the Department of Social Services, to address lease space needs for the Child Support Enforcement District Office, the Regional Administrative Office and the Regional Training Offices in Abingdon.
2. On behalf of the Department of Social Services, to address lease space needs for the Child Support Enforcement District Office and the Child Support Enforcement Regional Offices in Roanoke.
3. On behalf of the Department of Motor Vehicles, to address lease space needs for a customer service center to replace or renew the lease for the existing facility in Manassas and Henrico County.
4. On behalf of the Department of Corrections, to address space needs for probation and parole offices in Petersburg, Bristol, Abingdon, Gloucester, Front Royal, and Chesterfield County.
5. On behalf of the Department of Environmental Quality, to address lease space needs for a regional office to replace or renew the lease for the existing facility in Roanoke.
6. On behalf of the Department of Environmental Quality, to address lease space needs for the Piedmont Regional Office and Office of Air Quality Monitoring to replace or renew the lease for the existing facility in the greater Richmond area.
7. On behalf of the Department of Emergency Management, to address lease space needs for a headquarters facility to replace or renew the lease for the existing facility in the greater Richmond area.
8. On behalf of the Department of Motor Vehicles, to address lease space needs for the Sterling Customer Service Center to relocate and expand the existing facility.
9. On behalf of the Department of Historic Resources, to address lease space needs for additional archaeological storage space to expand the existing facility in the greater Richmond area.
10. *On behalf of the Department of Motor Vehicles, to address lease space needs for the Charlottesville and Smithfield Customer Service Centers to relocate the existing facilities.*

*2020 Special Session Executive Amendments - HB 5005*

**Explanation:**

(This amendment adds the Charlottesville and Smithfield Department of Motor Vehicles Customer Service Centers to the list of authorized long-term leases for the purpose of relocating these facilities to find more cost-effective lease space and lease space that can provide adequate accommodations for patrons and staff.)

---

## 2020 Special Session Executive Amendments - HB 5005

### Amendment 10: Redistricting Commission

#### Item 4-14

#### General Provisions

Effective Date

Language

#### Language:

Page 366, after line 39, insert:

*“9. That §§ 8.01-3, 24.2-306, 24.2-309.2, 30-263, 30-264, and 30-265 of the Code of Virginia are amended and reenacted and that the Code of Virginia is amended by adding in Title 30 a chapter numbered 62 consisting of sections numbered 30-391 through 30-400 as follows:*

**§ 8.01-3. Supreme Court may prescribe rules; effective date and availability; indexed, and annotated; effect of subsequent enactments of General Assembly.**

A. The Supreme Court, subject to §§ 17.1-503 and 16.1-69.32, may, from time to time, prescribe the forms of writs and make general regulations for the practice in all courts of the Commonwealth; and may prepare a system of rules of practice and a system of pleading and the forms of process and may prepare rules of evidence to be used in all such courts. This section shall be liberally construed so as to eliminate unnecessary delays and expenses.

*B. The Supreme Court, subject to § 30-399, shall enact rules and procedures as may be necessary for implementing the requirements of Article II, Section 6-A of the Constitution of Virginia, empowering the Supreme Court to establish congressional or state legislative districts as provided for in that section.*

~~B-C.~~ New rules and amendments to rules shall not become effective until 60 days from adoption by the Supreme Court, and shall be made available to all courts, members of the bar, and the public.

~~C-D.~~ The Virginia Code Commission shall publish and cause to be properly indexed and annotated the rules adopted by the Supreme Court, and all amendments thereof by the Court, and all changes made therein pursuant to subsection ~~D~~ E.

~~D-E.~~ The General Assembly may, from time to time, by the enactment of a general law, modify or annul any rules adopted or amended pursuant to this section. In the case of any variance between a rule and an enactment of the General Assembly such variance shall be construed so as to give effect to such enactment.

~~E-F.~~ Any amendment or addition to the rules of evidence shall be adopted by the Supreme Court on or before November 15 of any year and shall become effective on July 1 of the following year unless the General Assembly modifies or annuls any such amendment or addition by enactment of a general law. Notwithstanding the foregoing, the Supreme Court, at any time, may amend the rules to conform with any enactment of the General Assembly and correct unmistakable printer's errors, misspellings, unmistakable errors to statutory cross-references, and other unmistakable errors in the rules of evidence.

~~F-G.~~ When any rule contained in the rules of evidence is derived from one or more sections of the Code of Virginia, the Supreme Court shall include a citation to such section or sections in the title of the rule.

## ***2020 Special Session Executive Amendments - HB 5005***

### **§ 24.2-306. Changes not to be enacted within 60 days of general election; notice requirements.**

A. No change in any local election district, precinct, or polling place shall be enacted within 60 days next preceding any general election. Notice shall be published prior to enactment in a newspaper having general circulation in the election district or precinct once a week for two successive weeks. The published notice shall state where descriptions and maps of proposed boundary and polling place changes may be inspected.

B. Notice of any adopted change in any election district, town, precinct, or polling place other than in the location of the office of the general registrar shall be mailed to all registered voters whose election district, town, precinct, or polling place is changed at least 15 days prior to the next general, special, or primary election in which the voters will be voting in the changed election district, town, precinct, or polling place. Notice of a change in the location of the office of the general registrar shall be given by posting on the official website of the county or city, by posting at not less than 10 public places, or by publication once in a newspaper of general circulation in the county or city within not more than 21 days in advance of the change or within seven days following the change.

C. Each county, city, and town shall comply with the applicable requirements of law, including §§ 24.2-304.3 and ~~30-264~~ 30-395, and send copies of enacted changes, including a Geographic Information System (GIS) map showing the new boundaries of the districts or precincts, to the local electoral board, the Department, and the Division of Legislative Services. Any county, city, or town that does not have GIS capabilities may request the Department of Elections to create on its behalf a GIS map showing the boundaries of the new districts or precincts, and the Department of Elections shall create such a map.

### **§ 24.2-309.2. Election precincts; prohibiting precinct changes for specified period of time.**

No county, city, or town shall create, divide, abolish, or consolidate any precincts, or otherwise change the boundaries of any precinct, effective during the period from February 1, 2019, to May 15, 2021, except as (i) provided by law upon a change in the boundaries of the county, city, or town, (ii) the result of a court order, (iii) the result of a change in the form of government, or (iv) the result of an increase or decrease in the number of local election districts other than at-large districts. Any ordinance required to comply with the requirements of § 24.2-307 shall be adopted on or before February 1, 2019.

If a change in the boundaries of a precinct is required pursuant to clause (i), (ii), (iii), or (iv), the county, city, or town shall comply with the applicable requirements of law, including §§ 24.2-304.3 and ~~30-264~~ 30-395, and send copies of the ordered or enacted changes to the State Board of Elections and the Division of Legislative Services.

This section shall not prohibit any county, city, or town from adopting an ordinance revising precinct boundaries after January 1, 2021. However, no revisions in precinct boundaries shall be implemented in the conduct of elections prior to May 15, 2021.

### **§ 30-263. Joint Reapportionment Committee; membership; terms; quorum; compensation and expenses.**

A. The Joint Reapportionment Committee (*the Joint Committee*) is established in the legislative branch of state government. The *Joint Committee* shall consist of five members of the Committee on Privileges and Elections of the House of Delegates and three members of the Committee on Privileges and Elections of the Senate appointed by the respective chairmen of the two committees. Members shall

## ***2020 Special Session Executive Amendments - HB 5005***

serve terms coincident with their terms of office.

B. The Joint Committee shall elect a chairman and vice-chairman from among its membership. A majority of the members of the *Joint* Committee shall constitute a quorum. The meetings of the *Joint* Committee shall be held at the call of the chairman or whenever the majority of the members so request.

C. The Joint Committee shall supervise activities required for the tabulation of population for the census and for the timely reception of precinct population data for reapportionment, ~~and perform such other duties and responsibilities and exercise such supervision as may promote the orderly redistricting of congressional, state legislative, and local election districts.~~

D. Members shall receive such compensation as provided in § 30-19.12 and shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. Funding for the costs of compensation and expenses of the members shall be provided by the Office of the Clerk of the House of Delegates and the Office of Clerk of the Senate for their respective members.

### **§ 30-264. Staff to Joint Reapportionment Committee.**

~~A. The Division of Legislative Services (the Division) shall serve as staff to the Joint Reapportionment Committee. The Director of the Division, or his designated representative, shall serve as the state liaison with the United States Bureau of the Census on matters relating to the tabulation of the population for reapportionment purposes pursuant to United States Public Law 94-171. The governing bodies, electoral boards, and registrars of every county and municipality shall cooperate with the Division in the exchange of all statistical and other information pertinent to preparation for the census.~~

~~B. The Division shall maintain the current election district and precinct boundaries of each county and city as a part of the General Assembly's computer-assisted mapping and redistricting system. Whenever a county or city governing body adopts an ordinance that changes an election district or precinct boundary, the local governing body shall provide a copy of its ordinance, along with Geographic Information System (GIS) maps and other evidence documenting the boundary, to the Division.~~

~~C. The provisions of Article 2 (§ 24.2-302 et seq.) of Chapter 3 of Title 24.2, including the statistical reports referred to in that article, shall be controlling in any legal determination of a district boundary.~~

### **§ 30-265. Reapportionment of congressional and state legislative districts; United States Census population counts.**

For the purposes of redrawing the boundaries of the congressional, state Senate, and House of Delegates districts after the United States Census for the year 2020 and every 10 years thereafter, the ~~General Assembly Virginia Redistricting Commission established pursuant to Chapter 62 of Title 30~~ shall use the population data provided by the United States Bureau of the Census, as adjusted by the Division of Legislative Services pursuant to § 24.2-314. The census data used for this apportionment purpose shall not include any population figure which is not allocated to specific census blocks within the Commonwealth, even though that population may have been included in the apportionment population figures of the Commonwealth for the purpose of allocating United States House of Representatives seats among the states.

## **2020 Special Session Executive Amendments - HB 5005**

### *CHAPTER 62.*

#### *VIRGINIA REDISTRICTING COMMISSION.*

##### **§ 30-391. Virginia Redistricting Commission.**

*A. The Virginia Redistricting Commission is established in the legislative branch of state government. It shall be convened in the year 2020 and every 10 years thereafter for the purpose of establishing districts for the United States House of Representatives and for the Senate and the House of Delegates of the General Assembly.*

*B. As used in this chapter:*

*"Census data" means the population data received from the United States Bureau of the Census pursuant to P.L. 94-171.*

*"Commission" means the Virginia Redistricting Commission established pursuant to this chapter.*

*"Committee" means the Redistricting Commission Selection Committee established pursuant to § 30-393.*

*"Partisan public office" means (i) an elective or appointive office in the executive or legislative branch or in an independent establishment of the federal government; (ii) an elective office in the executive or legislative branch of the government of the Commonwealth, or an office that is filled by appointment and is exempt from the Virginia Personnel Act (§ 2.2-2900 et seq.); or (iii) an office of a county, city, or other political subdivision of the Commonwealth that is filled by an election process involving nomination and election of candidates on a partisan basis.*

*"Political party office" means an elective office in the national or state organization of a political party, as defined in § 24.2-101.*

##### **§ 30-392. Membership; terms; vacancies; chairman; quorum; compensation and expenses.**

*A. The Virginia Redistricting Commission shall consist of 16 commissioners that include eight legislative commissioners and eight citizen commissioners as follows: two commissioners shall be members of the Senate of Virginia, representing the political party having the highest number of members in the Senate and appointed by the President pro tempore of the Senate; two commissioners shall be members of the Senate, representing the political party having the next highest number of members in the Senate and appointed by the leader of that political party; two commissioners shall be members of the House of Delegates, representing the political party having the highest number of members in the House of Delegates and appointed by the Speaker of the House of Delegates; two commissioners shall be members of the House of Delegates, representing the political party having the next highest number of members in the House of Delegates and appointed by the leader of that political party; and eight citizen commissioners who shall be selected by the Redistricting Commission Selection Committee pursuant to § 30-394. No appointing authority shall appoint himself to serve as a legislative commissioner or a citizen commissioner.*

*B. Legislative commissioners selected to serve as commissioners of the Commission shall be appointed by the respective authorities no later than December 1 of the year ending in zero and shall continue to serve until their successors are appointed. In making its appointments, the appointing authorities shall endeavor to have their appointees reflect the racial, ethnic, geographic, and gender diversity of the Commonwealth. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies*

## **2020 Special Session Executive Amendments - HB 5005**

*shall be filled in the same manner as the original appointment, such that the proper partisan balance of the Commission is maintained.*

*C. Citizen commissioners selected to serve as commissioners of the Virginia Redistricting Commission shall be selected by the Redistricting Commission Selection Committee as provided in § 30-394. In making its selections, the Committee shall ensure the citizen commissioners are, as a whole, representative of the racial, ethnic, geographic, and gender diversity of the Commonwealth. Citizen commissioners shall be appointed no later than January 15 of the year ending in one and shall continue to serve until their successors are appointed. Appointments to fill vacancies, other than by expiration of a term, shall be for the unexpired terms. Vacancies shall be filled by the Commission selecting a replacement from the list submitted pursuant to subsection E of § 30-394 from which the commissioner being replaced was selected and shall require an affirmative vote of a majority of the commissioners, including at least one commissioner representing or affiliated with each political party.*

*D. Legislative commissioners shall receive such compensation as provided in § 30-19.12, and citizen commissioners shall receive such compensation as provided in § 2.2-2813 for their services. All members shall be reimbursed for all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2-2813 and 2.2-2825. All such compensation and expense payments shall come from existing appropriations to the Commission.*

*E. By February 1 of the year ending in one, the Commission shall hold a public meeting at which it shall select a chairman from its membership. The chairman shall be a citizen commissioner and shall be responsible for coordinating the work of the Commission. A majority of the commissioners appointed, which majority shall include a majority of the legislative commissioners and a majority of the citizen commissioners, shall constitute a quorum.*

*F. All meetings and records of the Commission shall be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except as provided in subsection E of § 30-394. All records and documents of the Commission, or any individual or group performing delegated functions of or advising the Commission, related to the Commission's work, including internal communications and communications from outside parties, shall be considered public information.*

*G. Commissioners, staff of the Commission, and any other advisor or consultant to the Commission shall not communicate with any person outside the Commission about matters related to reapportionment or redistricting outside of a public meeting or hearing. Written public comments submitted to the Commission, staff of the Commission, or any other advisor or consultant to the Commission shall not be a violation of this subsection.*

*H. In the event the Commission hires a lawyer or law firm, the Commission as an entity shall be considered the client of the lawyer or the law firm. No individual commissioner or group of commissioners shall be considered to be the client of the lawyer or the law firm.*

### **§ 30-393. Redistricting Commission Selection Committee; chairman; quorum; compensation and expenses.**

*A. There shall be a Redistricting Commission Selection Committee established for the purpose of selecting the citizen commissioners of the Virginia Redistricting Commission. This committee shall consist of five retired judges of the circuit courts of Virginia.*

*B. By November 15 of the year ending in zero, the Chief Justice of the Supreme Court of Virginia shall certify to the Speaker of the House of Delegates, the leader in the House of Delegates of the political party having the*

## **2020 Special Session Executive Amendments - HB 5005**

*next highest number of members in the House of Delegates, the President pro tempore of the Senate of Virginia, and the leader in the Senate of Virginia of the political party having the next highest number of members in the Senate of Virginia a list of at least 10 retired judges of the circuit courts of Virginia who are willing to serve on the Committee, and no retired judge who is a parent, spouse, child, sibling, parent-in-law, child-in-law, or sibling-in-law of, or a cohabitating member of a household with, a member of the Congress of the United States or of the General Assembly shall be included in such list. In compiling this list, the Chief Justice shall give consideration to the racial, ethnic, geographic, and gender diversity of the Commonwealth. These members shall each select a judge from the list and shall promptly, but not later than November 20, communicate their selection to the Chief Justice, who shall immediately notify the four judges selected. In making their selections, the members shall give consideration to the racial, ethnic, geographic, and gender diversity of the Commonwealth. Within three days of being notified of their selection, the four judges shall select, by a majority vote, a judge from the list prescribed herein to serve as the fifth member of the Committee, who shall serve as the chairman of the Committee.*

*A majority of the Committee members, which majority shall include the chairman, shall constitute a quorum.*

*The judges of the Committee shall serve until their successors are appointed. If a judge cannot, for any reason, complete his term, the remaining judges shall select a replacement from the list prescribed herein.*

*C. Members of the Committee shall receive compensation for their services and shall be allowed all reasonable and necessary expenses incurred in the performance of their duties as provided in §§ 2.2- 2813 and 2.2-2825. The compensation and expenses of members and all other necessary expenses of the Committee shall be provided from existing appropriations to the Commission.*

*D. All meetings and records of the Committee shall be subject to the Virginia Freedom of Information Act (§ 2.2-3700 et seq.), except as provided in subsection E of § 30-394.*

*E. Notwithstanding the provisions of § 1-210 regarding the computation of time, if an act required by this section is to be performed on a Saturday, Sunday, or legal holiday, or any day or part of a day on which the government office where the act to be performed is closed, the act required shall be performed on the first business day immediately preceding the Saturday, Sunday, or legal holiday, or day on which the government office is closed.*

### **§ 30-394. Citizen commissioners; application process; qualifications; selection.**

*A. Within three days following the selection of the fifth member of the Committee, the Committee shall adopt an application and process by which residents of the Commonwealth may apply to serve on the Commission as citizen commissioners. The Division of Legislative Services shall assist the Committee in the development of the application and process.*

*The application for service on the Commission shall require applicants to provide personal contact information and information regarding the applicant's race, ethnicity, gender, age, date of birth, education, and household income. The application shall require an applicant to disclose, for the period of three years immediately preceding the application period, the applicant's (i) voter registration status; (ii) preferred political party affiliation, if any, and any political party primary elections in which he has voted; (iii) history of any partisan public offices or political party offices held or sought; (iv) employment history, including any current or prior employment with the Congress of the United States or one of its members, the General Assembly or one of its members, any political party, or any campaign for a partisan public office, including a volunteer position; and*

## ***2020 Special Session Executive Amendments - HB 5005***

*(v) relevant leadership experience or involvements with professional, social, political, volunteer, and community organizations and causes.*

*The application shall require an applicant to disclose information regarding the partisan activities and employment history of the applicant's parent, spouse, child, sibling, parent-in-law, child-in-law, or sibling-in-law, or any person with whom the applicant is a cohabitating member of a household, for the period of three years immediately preceding the application period.*

*The Committee may require applicants to submit three letters of recommendation from individuals or organizations.*

*The application process shall provide for both paper and electronic or online applications. The Committee shall cause to be advertised throughout the Commonwealth information about the Commission and how interested persons may apply.*

*B. To be eligible for service on the Commission, a person shall have been a resident of the Commonwealth and a registered voter in the Commonwealth for three years immediately preceding the application period. He shall have voted in at least two of the previous three general elections. No person shall be eligible for service on the Commission who:*

- 1. Holds, has held, or has sought partisan public office or political party office;*
- 2. Is employed by or has been employed by a member of the Congress of the United States or of the General Assembly or is employed directly by or has been employed directly by the United States Congress or by the General Assembly;*
- 3. Is employed by or has been employed by any federal, state, or local campaign;*
- 4. Is employed by or has been employed by any political party or is a member of a political party central committee;*
- 5. Is a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or a lobbyist's principal as defined in § 2.2-419 or has been such a lobbyist or lobbyist's principal in the previous five years; or*
- 6. Is a parent, spouse, child, sibling, parent-in-law, child-in-law, or sibling-in-law of a person described in subdivisions 1 through 5, or is a cohabitating member of a household with such a person.*

*C. The application period shall begin no later than December 1 of the year ending in zero and shall end four weeks after the beginning date. During this period, interested persons shall submit a completed application and any required documentation to the Division of Legislative Services. All applications shall be reviewed by the Division of Legislative Services to ensure an applicant's eligibility for service pursuant to subsection B, and any applicant who is ineligible for service shall be removed from the applicant pool.*

*The Division of Legislative Services shall make available the application for persons to use when submitting a paper application and shall provide electronic access for electronic submission of applications.*

*D. Within two days of the close of the application period, the Division of Legislative Services shall provide to the Speaker of the House of Delegates, the leader in the House of Delegates of the political party having the next highest number of members in the House of Delegates, the President pro tempore of the Senate of Virginia,*

## **2020 Special Session Executive Amendments - HB 5005**

*and the leader in the Senate of Virginia of the political party having the next highest number of members in the Senate of Virginia the applications and documentation submitted by those applicants who are eligible for service on the Commission pursuant to subsection B and submitted complete applications, including any required documentation.*

*E. By January 1 of the year ending in one, those persons receiving the applications pursuant to subsection D shall each submit to the Committee a list of at least 16 citizen candidates for service on the Commission. In selecting citizen candidates, they shall give consideration to the racial, ethnic, geographic, and gender diversity of the Commonwealth.*

*They shall notify the Division of Legislative Services of the citizen candidates submitted to the Committee for consideration, and the Division of Legislative Services shall promptly provide to the Committee the applications and documentation for each citizen candidate being considered. Only the applications and documentation for each citizen candidate shall be maintained as public records.*

*F. Within two weeks of receipt of the lists of citizen candidates and related materials pursuant to subsection E, but no later than January 15, the Committee shall select, by a majority vote in a public meeting, two citizen members from each list submitted. In making its selections, the Committee shall ensure the citizen commissioners are, as a whole, representative of the racial, ethnic, geographic, and gender diversity of the Commonwealth. The Committee shall promptly notify those eight citizens of their selection to serve as a citizen commissioner of the Commission.*

*No member of the Committee shall communicate with a member of the General Assembly or the United States Congress, or any person acting on behalf of a member of the General Assembly or the United States Congress, about any matter related to the selection of citizen commissioners after receipt of the lists submitted pursuant to subsection E.*

*G. Notwithstanding the provisions of § 1-210 regarding the computation of time, if an act required by this section is to be performed on a Saturday, Sunday, or legal holiday, or any day or part of a day on which the government office where the act to be performed is closed, the act required shall be performed on the first business day immediately preceding the Saturday, Sunday, or legal holiday, or day on which the government office is closed.*

### **§ 30-395. Staff to Virginia Redistricting Commission; census liaison.**

*A. The Division of Legislative Services shall provide staff support to the Commission. Staff shall perform those duties assigned to it by the Commission. The Director of the Division of Legislative Services, or his designated representative, shall serve as the state liaison with the United States Bureau of the Census on matters relating to the tabulation of the population for reapportionment purposes pursuant to P.L. 94-171. The governing bodies, electoral boards, and registrars of every county and municipality shall cooperate with the Division of Legislative Services in the exchange of all statistical and other information pertinent to preparation for the census.*

*B. The Division of Legislative Services shall maintain the current election district and precinct boundaries of each county and city as a part of the Commission's computer-assisted mapping and redistricting system. Whenever a county or city governing body adopts an ordinance that changes an election district or precinct boundary, the local governing body shall provide a copy of its ordinance, along with Geographic Information System (GIS) maps and other evidence documenting the boundary, to the Division of Legislative Services.*

## **2020 Special Session Executive Amendments - HB 5005**

*C. The provisions of Article 2 (§ 24.2-302 et seq.) of Chapter 3 of Title 24.2, including the statistical reports referred to in that article, shall be controlling in any legal determination of a district boundary.*

### **§ 30-396. Public participation in redistricting process.**

*A. All meetings and hearings held by the Commission shall be adequately advertised and planned to ensure the public is able to attend and participate fully. Meetings and hearings shall be advertised in multiple languages as practicable and appropriate.*

*B. Prior to proposing any plan for districts for the United States House of Representatives, the Senate, or the House of Delegates and prior to voting to submit such plans to the General Assembly, the Commission shall hold at least three public hearings in order to receive and consider comments from the public. Public hearings may be held virtually and any public hearings that are held in person shall be conducted in different parts of the Commonwealth.*

*C. The Commission shall establish and maintain a website or other equivalent electronic platform. The website shall be available to the general public and shall be used to disseminate information about the Commission's activities. The website shall be capable of receiving comments and proposals by citizens of the Commonwealth. Prior to voting on any proposed plan, the Commission shall publish the proposed plans on the website.*

*D. All data used by the Commission in the drawing of districts shall be available to the public on its website. Such data, including census data, precinct maps, election results, and shapefiles, shall be posted within three days of receipt by the Commission.*

### **§ 30-397. Proposal and submission of plans for districts.**

*A. The Commission shall submit to the General Assembly plans for districts for the Senate and the House of Delegates of the General Assembly no later than 45 days following the receipt of census data.*

*To be submitted as a proposed plan for districts for members of the Senate, a plan shall receive affirmative votes of at least six of the eight legislative commissioners, including at least three of the four legislative commissioners who are members of the Senate, and at least six of the eight citizen commissioners.*

*To be submitted as a proposed plan for districts for members of the House of Delegates, a plan shall receive affirmative votes of at least six of the eight legislative commissioners, including at least three of the four legislative commissioners who are members of the House of Delegates, and at least six of the eight citizen commissioners.*

*B. The Commission shall submit to the General Assembly plans for districts for the United States House of Representatives no later than 60 days following the receipt of census data or by the first day of July of that year, whichever occurs first.*

*To be submitted as a proposed plan for districts for members of the United States House of Representatives, a plan shall receive affirmative votes of at least six of the eight legislative commissioners and at least six of the eight citizen commissioners.*

*C. If the Commission fails to submit a plan for districts by the deadline set forth in subsection A or B, the Commission shall have 14 days following its initial failure to submit a plan to the General Assembly. If the Commission fails to submit a plan for districts to the General Assembly by this date, the districts shall be established by the Supreme Court of Virginia pursuant to § 30-399.*

## **2020 Special Session Executive Amendments - HB 5005**

*D. All plans submitted pursuant to this section shall comply with the criteria and standards set forth in § 24.2-304.04.*

### **§ 30-398. Consideration of plans by the General Assembly; timeline.**

*A. All plans for districts for the Senate and the House of Delegates shall be embodied in and voted on as a single bill.*

*B. All bills embodying plans for districts for the United States House of Representatives, the Senate, or the House of Delegates shall be voted on by the General Assembly in accordance with the provisions of Article IV, Section 11 of the Constitution of Virginia, except no amendments shall be permitted. All bills embodying a plan that are approved by both houses shall become law without the signature of the Governor and, pursuant to Article II, Section 6 of the Constitution of Virginia, shall take effect immediately.*

*C. Within 15 days of receipt of any plan for districts, the General Assembly shall take a vote on a bill embodying such plan. If the General Assembly fails to adopt the bill by this deadline, the Commission shall submit a new plan for districts within 14 days of the General Assembly's failure to adopt the bill. Within seven days of receipt of such plan, the General Assembly shall take a vote on the bill embodying the plan, and if the General Assembly fails to adopt the plan by this deadline, the districts shall be established by the Supreme Court of Virginia pursuant to § 30-399.*

*D. If the Commission submits a plan for districts pursuant to subsection C of § 30-397, the General Assembly shall take a vote on such plan within seven days of its receipt. If the General Assembly fails to adopt the plan by this deadline, the districts shall be established by the Supreme Court of Virginia pursuant to § 30-399.*

### **§ 30-399. Establishment of districts by the Supreme Court of Virginia.**

*A. In the event the Commission fails to submit a plan for districts by the deadline set forth in subsection A or B of § 30-397, or the General Assembly fails to adopt a plan for districts by the deadline set forth in subsection C or D of § 30-398, the Supreme Court of Virginia (the Court) shall be responsible for establishing the districts.*

*B. The Court shall, not later than March 1 of a year ending in one, enact rules and procedures as may be necessary for implementing the requirements of Article II, Section 6-A of the Constitution of Virginia, empowering the Court to establish congressional or state legislative districts as provided for in that section. In enacting such rules and procedures, the Court shall follow the provisions of this section.*

*C. Public participation in the Court's redistricting deliberations shall be permitted. Such public participation may be through briefings, written submissions, hearings in open court, or any other means as may be prescribed by the Court.*

*D. The Division of Legislative Services shall make available staff support and technical assistance to the Court to perform those duties as may be requested or assigned to it by the Court.*

*E. Any plan for congressional or state legislative districts established by the Court shall adhere to the standards and criteria for districts set forth in Article II, Section 6 of the Constitution of Virginia and § 24.2-304.04.*

*F. The Court shall appoint two special masters to assist the Court in the establishment of districts. The two special masters shall work together to develop any plan to be submitted to the Court for its consideration.*

## **2020 Special Session Executive Amendments - HB 5005**

*Within one week of the Commission's failure to submit plans or the General Assembly's failure to adopt plans, the leaders in the House of Delegates having the highest and next highest number of members in the House of Delegates and the leaders in the Senate of Virginia having the highest and next highest number of members in the Senate of Virginia shall each submit to the Court a list of three or more nominees, along with a brief biography and resume for each nominee, including the nominee's particular expertise or experience relevant to redistricting. The Court shall then select, by a majority vote, one special master from the lists submitted by the legislative leaders of the political party having the highest number of members in their respective chambers and one special master from the lists submitted by the legislative leaders of the political party having the next highest number of members in their respective chambers. The persons appointed to serve as special masters shall have the requisite qualifications and experience to serve as a special master and shall have no conflicts of interest. In making its appointments, the Court shall consider any relevant redistricting experience in the Commonwealth and any practical or academic experience in the field of redistricting. The Court shall be reimbursed by the Commonwealth for all costs, including fees and expenses, related to the appointment or work of the special master from funds appropriated for this purpose.*

*G. Any justice who is a parent, spouse, child, sibling, parent-in-law, child-in-law, or sibling-in-law of, or a cohabitating member of a household with, a member of the Congress of the United States or of the General Assembly shall recuse himself from any decision made pursuant to this section, and no senior justice designated pursuant to § 17.1-302 shall be assigned to the case or matter to serve in his place.*

### **§ 30-400. Remedial redistricting plans.**

*If any congressional or state legislative district established pursuant to this chapter or the provisions of Article II, Sections 6 and 6-A of the Constitution of Virginia is declared unlawful or unconstitutional, in whole or in part, by order of any state or federal court, the Commission shall be convened to determine and propose a redistricting plan to remedy the unlawful or unconstitutional district.*

***10. That an emergency exists and the provisions of Enactment 9 of this act shall become effective on November 15, 2020, contingent upon the passage of an amendment to the Constitution of Virginia on the Tuesday after the first Monday in November 2020, establishing the Virginia Redistricting Commission by amending Section 6 of Article II and adding in Article II a new section numbered 6-A. If such amendment is not approved by the voters, the provisions of this act shall not become effective.”***

Page 366, line 40, strike “9.” and insert “11.”.

Page 366, line 42, strike “10.” and insert “12.”.

Page 366, line 42, strike “fifth enactment” and insert “fifth, ninth, and tenth enactments”.

### **Explanation:**

(This amendment provides for the implementation of the constitutional amendment establishing the Virginia Redistricting Commission, effective November 15, 2020, contingent upon the passage of the amendment by voters on the Tuesday after the first Monday in November 2020.)