

# HOUSE BILL 537

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By: **Delegates Reznik, Barkley, Barve, Cullison, Ebersole, Frick, Frush, Healey, Hixson, Jones, Moon, and Platt**

Introduced and read first time: January 26, 2018

Assigned to: Rules and Executive Nominations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Potomac Compact for Fair Representation**

3 FOR the purpose of establishing the Potomac Compact for Fair Representation; providing  
4 that a compacting state is not required to comply with the Compact under certain  
5 circumstances; establishing the Congressional Districting Commission; requiring  
6 the Executive Director of the Department of Legislative Services to determine the  
7 size and composition of the Commission and, on or before a certain date in certain  
8 years, select the members of the Commission; requiring that the members of the  
9 Commission include certain professionals; requiring the Executive Director, subject  
10 to a certain limitation, to determine the education and experience that an individual  
11 is required to have for a certain purpose; requiring that the members of the  
12 Commission be full-time employees of the Department or, under certain  
13 circumstances, certain contractual employees; providing for the terms of the  
14 members of the Commission; prohibiting members of the Commission from being  
15 certain officials or a candidate for elected office while serving on the Commission;  
16 providing that the members of the Commission may be removed only by  
17 impeachment under a certain provision of law for certain reasons; prohibiting the  
18 Department from terminating the employment of certain members of the  
19 Commission except under certain circumstances; requiring congressional districts to  
20 conform to certain standards and that due regard be given to certain boundaries;  
21 requiring the Commission to prepare a certain congressional districting plan  
22 following a certain census and after public hearings; requiring the Commission to  
23 present each plan to the President of the Senate and the Speaker of the House of  
24 Delegates; requiring the President and the Speaker to introduce the plan as a joint  
25 resolution by a certain day of a certain General Assembly session; authorizing the  
26 Governor to call a special session for certain purposes; prohibiting the plan from  
27 being amended; prohibiting a member of the General Assembly from introducing a  
28 certain joint resolution or bill; providing that the plan becomes law on adoption by  
29 the General Assembly by a certain vote; requiring that an alternate congressional  
30 districting plan be prepared and submitted under certain circumstances; requiring

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 the Court of Appeals to prepare a congressional districting plan under certain  
2 circumstances; providing that the Court of Appeals has original jurisdiction to review  
3 certain districting of the State under certain circumstances; authorizing the Court  
4 of Appeals to grant certain relief under certain circumstances; providing for the  
5 application of certain provisions of law and of this Act; defining certain terms;  
6 making this Act subject to a certain contingency; and generally relating to the  
7 Potomac Compact for Fair Representation.

8 BY adding to

9 Article – Election Law

10 Section 8–6A–01 through 8–6A–05 to be under the new subtitle “Subtitle 6A. The  
11 Potomac Compact for Fair Representation”

12 Annotated Code of Maryland

13 (2017 Replacement Volume and 2017 Supplement)

14 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
15 That the Laws of Maryland read as follows:

16 **Article – Election Law**

17 **SUBTITLE 6A. THE POTOMAC COMPACT FOR FAIR REPRESENTATION.**

18 **8–6A–01.**

19 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
20 INDICATED.

21 (B) “COMMISSION” MEANS THE CONGRESSIONAL DISTRICTING  
22 COMMISSION ESTABLISHED BY THE COMPACTING STATES UNDER §  
23 8–6A–03 OF THIS SUBTITLE.

24 (C) “COMPACT” MEANS THE POTOMAC COMPACT FOR FAIR  
25 REPRESENTATION.

26 (D) “COMPACTING STATE” MEANS THE COMMONWEALTH OF VIRGINIA AND  
27 THE STATE OF MARYLAND.

28 (E) “DEPARTMENT OF LEGISLATIVE SERVICES” MEANS THE NONPARTISAN  
29 STATE AGENCY IN MARYLAND.

30 (F) “NONPARTISAN STATE AGENCY” MEANS A STATE AGENCY DESIGNATED  
31 BY A COMPACTING STATE THAT PROVIDES NONPARTISAN RESEARCH OR ANALYSIS  
32 TO THE STATE LEGISLATURE OF THE DESIGNATING COMPACTING STATE.

33 (G) “PLAN” MEANS THE CONGRESSIONAL DISTRICTING PLAN PREPARED

1 FOR A COMPACTING STATE BY THE COMMISSION UNDER § 8-6A-05(A) OF THIS  
2 SUBTITLE.

3 8-6A-02.

4 (A) THERE IS A POTOMAC COMPACT FOR FAIR REPRESENTATION.

5 (B) THIS SUBTITLE APPLIES ONLY IF THE DEPARTMENT OF LEGISLATIVE  
6 SERVICES DETERMINES AFTER CONSULTATION WITH AND ON THE ADVICE OF THE  
7 ATTORNEY GENERAL THAT VIRGINIA HAS ADOPTED A CONGRESSIONAL  
8 DISTRICTING PROCESS THAT IS SUBSTANTIALLY SIMILAR TO THE PROCESS IN THIS  
9 SUBTITLE.

10 (C) A PROCESS SHALL BE CONSIDERED SUBSTANTIALLY SIMILAR FOR THE  
11 PURPOSES OF SUBSECTION (B) OF THIS SECTION ONLY IF:

12 (1) A CONGRESSIONAL DISTRICTING PLAN IS INITIALLY DEVELOPED  
13 AND PROPOSED BY A COMMISSION COMPOSED OF INDIVIDUALS WHO ARE:

14 (I) EMPLOYEES OF OR CONTRACTED BY A NONPARTISAN STATE  
15 AGENCY THAT PROVIDES NONPARTISAN RESEARCH OR ANALYSIS; AND

16 (II) NOT SELECTED BY THE GOVERNOR OF THE STATE,  
17 MEMBERS OF THE STATE LEGISLATURE, OR AN INDIVIDUAL SELECTED BY THE  
18 GOVERNOR OF THE STATE OR THE STATE LEGISLATURE;

19 (2) THE STATE LEGISLATURE IS ALLOWED TO VOTE ON THE  
20 CONGRESSIONAL DISTRICTING PLAN PROPOSED BY THE COMMISSION BUT IS  
21 PROHIBITED FROM ALTERING THE PLAN; AND

22 (3) A CONGRESSIONAL DISTRICTING PLAN PREPARED BY THE  
23 COMPACTING STATE'S HIGHEST COURT BECOMES LAW IF THE STATE LEGISLATURE  
24 FAILS TO ADOPT THE CONGRESSIONAL DISTRICTING PLAN PROPOSED BY THE  
25 COMMISSION.

26 (D) A COMPACTING STATE IS NOT REQUIRED TO COMPLY WITH THIS  
27 COMPACT IF:

28 (1) A COMMISSION FAILS TO ADOPT A CONGRESSIONAL DISTRICTING  
29 PLAN FOR A COMPACTING STATE; OR

30 (2) A COMPACTING STATE'S ATTORNEY GENERAL DETERMINES THAT  
31 THE OTHER COMPACTING STATE HAS REPEALED, REPLACED, OR FAILED TO

1 IMPLEMENT ANY ASPECT OF THIS COMPACT, INCLUDING FAILING TO IMPLEMENT  
2 THE DISTRICT MAP ADOPTED BY A COMMISSION.

3 8-6A-03.

4 (A) THERE IS A CONGRESSIONAL DISTRICTING COMMISSION.

5 (B) SUBJECT TO SUBSECTIONS (C) AND (D) OF THIS SECTION, THE  
6 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL:

7 (1) DETERMINE THE SIZE AND COMPOSITION OF THE COMMISSION;  
8 AND

9 (2) ON OR BEFORE JUNE 1 OF THE YEAR FOLLOWING THE DECENNIAL  
10 CENSUS, SELECT THE MEMBERS OF THE COMMISSION.

11 (C) (1) THE MEMBERS OF THE COMMISSION SHALL INCLUDE:

12 (I) A DEMOGRAPHER;

13 (II) A CARTOGRAPHER;

14 (III) AN APPLIED MATHEMATICIAN;

15 (IV) A COMPUTER SCIENTIST; AND

16 (V) A LAWYER OR LEGAL EXPERT WHO SPECIALIZES IN  
17 ELECTION AND REDISTRICTING LAW.

18 (2) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, THE  
19 EXECUTIVE DIRECTOR OF THE DEPARTMENT OF LEGISLATIVE SERVICES SHALL  
20 DETERMINE THE EDUCATION AND EXPERIENCE THAT AN INDIVIDUAL IS REQUIRED  
21 TO HAVE IN ORDER TO BE SELECTED AS ONE OF THE MEMBERS LISTED IN  
22 PARAGRAPH (1) OF THIS SUBSECTION.

23 (3) IN DETERMINING THE EDUCATION AND EXPERIENCE REQUIRED,  
24 THE EXECUTIVE DIRECTOR MAY NOT DEVIATE FROM WHAT IS NORMALLY  
25 CONSIDERED TO BE THE MINIMUM QUALIFICATIONS REQUIRED TO BE EMPLOYED AS  
26 THE PROFESSIONAL LISTED.

27 (D) MEMBERS OF THE COMMISSION SHALL BE:

28 (1) FULL-TIME EMPLOYEES OF THE DEPARTMENT OF LEGISLATIVE

1 SERVICES; OR

2 (2) IF THE EXECUTIVE DIRECTOR DETERMINES THAT THE NEEDS OF  
3 THE COMMISSION CANNOT BE MET WITH THE AVAILABLE FULL-TIME EMPLOYEES  
4 OF THE DEPARTMENT OF LEGISLATIVE SERVICES, EMPLOYEES HIRED ON A  
5 CONTRACTUAL BASIS FOR THE PURPOSE OF SERVING ON THE COMMISSION.

6 (E) THE TERM OF A MEMBER OF THE COMMISSION BEGINS WHEN THE  
7 MEMBER IS SELECTED AND ENDS WHEN:

8 (1) A CONGRESSIONAL DISTRICTING PLAN IS ADOPTED BY THE  
9 GENERAL ASSEMBLY UNDER § 8-6A-05 OF THIS SUBTITLE; OR

10 (2) THE COURT OF APPEALS IS REQUIRED TO PREPARE THE  
11 CONGRESSIONAL DISTRICTING PLAN UNDER § 8-6A-05(F) OF THIS SUBTITLE.

12 (F) WHILE SERVING ON THE COMMISSION, A MEMBER MAY NOT BE:

13 (1) AN ELECTED OFFICIAL;

14 (2) AN OFFICIAL WHOSE APPOINTMENT IS SUBJECT TO SENATE  
15 CONFIRMATION; OR

16 (3) A CANDIDATE FOR ELECTED OFFICE.

17 (G) (1) A MEMBER OF THE COMMISSION MAY BE REMOVED DURING THE  
18 MEMBER'S TERM ONLY BY IMPEACHMENT UNDER ARTICLE III, § 26 OF THE  
19 MARYLAND CONSTITUTION FOR MALFEASANCE, MISFEASANCE, OR NONFEASANCE.

20 (2) IF A FULL-TIME EMPLOYEE OF THE DEPARTMENT OF  
21 LEGISLATIVE SERVICES IS REMOVED FROM THE COMMISSION BY IMPEACHMENT  
22 UNDER PARAGRAPH (1) OF THIS SUBSECTION, THE DEPARTMENT MAY NOT  
23 TERMINATE THE EMPLOYMENT OF THE EMPLOYEE UNLESS THE MALFEASANCE,  
24 MISFEASANCE, OR NONFEASANCE WOULD HAVE BEEN GROUNDS FOR TERMINATION  
25 IF COMMITTED BY THE EMPLOYEE IN THE COURSE OF THE EMPLOYEE'S OTHER  
26 DUTIES.

27 8-6A-04.

28 (A) EACH CONGRESSIONAL DISTRICT SHALL CONSIST OF ADJOINING  
29 TERRITORY, BE COMPACT IN FORM, AND BE OF SUBSTANTIALLY EQUAL  
30 POPULATION.

1 (B) DUE REGARD SHALL BE GIVEN TO NATURAL BOUNDARIES AND THE  
2 BOUNDARIES OF POLITICAL SUBDIVISIONS WHEN DRAWING CONGRESSIONAL  
3 DISTRICT BOUNDARIES.

4 8-6A-05.

5 (A) FOLLOWING EACH DECENNIAL CENSUS OF THE UNITED STATES AND  
6 AFTER PUBLIC HEARINGS, THE COMMISSION SHALL PREPARE A PLAN  
7 ESTABLISHING THE BOUNDARIES OF THE CONGRESSIONAL DISTRICTS THAT  
8 COMPLIES WITH APPLICABLE FEDERAL LAW, § 8-6A-04 OF THIS SUBTITLE, AND ANY  
9 OTHER APPLICABLE STATE LAW.

10 (B) THE COMMISSION SHALL PRESENT THE PLAN TO THE PRESIDENT OF  
11 THE SENATE AND THE SPEAKER OF THE HOUSE OF DELEGATES, WHO SHALL  
12 INTRODUCE THE PLAN AS A JOINT RESOLUTION TO THE GENERAL ASSEMBLY NOT  
13 LATER THAN THE FIRST DAY OF ITS REGULAR SESSION IN THE SECOND YEAR  
14 FOLLOWING THE DECENNIAL CENSUS.

15 (C) THE GOVERNOR MAY CALL A SPECIAL SESSION FOR THE PRESENTATION  
16 OF THE PLAN BEFORE THE REGULAR SESSION.

17 (D) (1) THE PLAN MAY NOT BE AMENDED.

18 (2) A MEMBER OF THE GENERAL ASSEMBLY MAY NOT INTRODUCE A  
19 JOINT RESOLUTION OR A BILL CONTAINING A CONGRESSIONAL DISTRICTING PLAN  
20 THAT IS DIFFERENT FROM THE PLAN PROPOSED BY THE COMMISSION.

21 (E) (1) THE PLAN SHALL BECOME LAW ON ADOPTION BY THE GENERAL  
22 ASSEMBLY BY A MAJORITY VOTE OF BOTH HOUSES.

23 (2) IF THE GENERAL ASSEMBLY FAILS TO ADOPT THE PLAN BY THE  
24 17TH DAY AFTER THE OPENING OF THE REGULAR SESSION OF THE LEGISLATURE IN  
25 THE SECOND YEAR FOLLOWING THE DECENNIAL CENSUS, THE COMMISSION SHALL  
26 PREPARE AN ALTERNATE PLAN AND SUBMIT IT TO THE PRESIDENT OF THE SENATE  
27 AND THE SPEAKER OF THE HOUSE OF DELEGATES, WHO SHALL INTRODUCE THE  
28 PLAN AS A JOINT RESOLUTION TO THE GENERAL ASSEMBLY.

29 (F) IF THE ALTERNATE PLAN INTRODUCED UNDER SUBSECTION (E)(2) OF  
30 THIS SECTION FAILS TO RECEIVE A MAJORITY VOTE OF BOTH HOUSES BY THE 52ND  
31 DAY AFTER THE OPENING OF THE REGULAR SESSION OF THE GENERAL ASSEMBLY  
32 IN THE SECOND YEAR FOLLOWING THE DECENNIAL CENSUS, THE COURT OF  
33 APPEALS SHALL PREPARE THE PLAN ESTABLISHING THE BOUNDARIES OF THE  
34 CONGRESSIONAL DISTRICTS.

1           **(G) IF THE GENERAL ASSEMBLY ADOPTS A PLAN, ON PETITION OF ANY**  
2 **REGISTERED VOTER, THE COURT OF APPEALS:**

3           **(1) SHALL HAVE ORIGINAL JURISDICTION TO REVIEW THE**  
4 **CONGRESSIONAL DISTRICTING PLAN; AND**

5           **(2) MAY GRANT APPROPRIATE RELIEF IF IT FINDS THAT THE**  
6 **CONGRESSIONAL DISTRICTING PLAN IS NOT CONSISTENT WITH APPLICABLE**  
7 **FEDERAL AND STATE LAW.**

8           SECTION 2. AND BE IT FURTHER ENACTED, That:

9           (a) This Act may not take effect until a similar Act is enacted by the  
10 Commonwealth of Virginia not later than January 1, 2020.

11           (b) The Commonwealth of Virginia is requested to concur in this Act by enactment  
12 of a similar Act before January 1, 2020.

13           (c) The Department of Legislative Services shall notify the appropriate officials  
14 of the Commonwealth of Virginia of the enactment of this Act.

15           (d) On the concurrence in this Act by the Commonwealth of Virginia, the  
16 Governor of the State of Maryland shall issue a proclamation declaring this Act valid and  
17 effective and shall forward a copy of the proclamation to the Executive Director of the  
18 Department of Legislative Services.

19           (e) If the Commonwealth of Virginia does not concur in this Act as specified in  
20 this section, this Act, with no further action required by the General Assembly, shall be  
21 null and void.

22           SECTION 3. AND BE IT FURTHER ENACTED, That, subject to Section 2 of this  
23 Act, this Act shall take effect October 1, 2018.