

VIRGINIA: IN THE CIRCUIT COURT OF TAZEWELL COUNTY

RYAN T. MCDOUGLE, Virginia State Senator and
Legislative Commissioner for the Virginia
Redistricting Commission, et al.,

Plaintiffs,

v.

G. PAUL NARDO, in his official capacity as
Clerk of the Virginia House of Delegates, et al.,
Defendants,
and

DON SCOTT, in his official capacity as Speaker of
the Virginia House of Delegates,

Intervenor-Defendant.

CASE NO.: CL25-1582-00

ORDER

Upon an Amended Complaint, all responses thereto; upon all briefs, Memoranda Exhibits, Amicus Briefs, and arguments at the hearing of January 21, 2026, the Court makes the following findings and rulings.

While the Court allowed counsel up to ten (10) days to submit additional authority on the limited issue of ripeness regarding the applicability of Va. Code §30-13, the actions of the Interpleader Defendant makes clear that it is ripe; however, since the Court retains jurisdiction for twenty-one (21) days, it can re-address this issue if additional authority filed by January 31, 2026 so necessitates.

The first issue raised by the Plaintiffs is that the 2024 Special Session could not legally remain active as of October 31, 2025, the date of passage of the proposed Constitutional Amendment. Plaintiffs argue that the Special Session ended upon the convening of the Regular 2025 Session. Secondly, they argue in the alternative that the Special Session ended upon the passage of the Budget, which was the purpose for which the Governor called the Special Session.

However, Plaintiffs were unable to show Constitutional or Statutory prohibition of continuing the Special Session and conceded that when the Plaintiffs were in the majority in 2018 and 2022, they continued Special Sessions in the same manner. Therefore, the Court FINDS that the continued reconvening of the Special Session was valid up to and including the October 31, 2025 meeting of said Special Session.

The second challenge to the actions of the 2024 Special Session's passage of the proposed Constitutional Amendment is the failure of the General Assembly to follow its own Resolutions in adding the proposed Constitutional Amendment to the scope of business that may come before the 2024 Special Session.

While it is not contested that the Governor called for a Special Session to address the issue of the Budget Bill, it is likewise conceded that on a February 3, 2024 vote of both houses of the General Assembly, an application for a Special Session was also invoked pursuant to Article III, Section 6 of the Virginia Constitution.

House Joint Resolution 428 passed in the House of Delegates by a vote of 98-0, and in the Senate by a vote of 40-0. Said Resolution stated that the Special Session would "consider such matters are provided for in the procedural resolution [emphasis added] adopted to govern the conduct of business coming before such Special Session."

The "Procedural Resolution" was House Joint Resolution 6001, which also passed by a super majority in both houses: 99-0 in the House and 39-1 in the Senate. The specified purpose of the Resolution, which is found in italics under the Bills Number is:

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

The first paragraph directly states that "... **except with unanimous consent** [emphasis added] of the house in which legislation is offered, **no** [emphasis added] bill, joint bills, joint resolutions, or resolutions affecting the rules of procedure or schedule of business of the General Assembly, either of its houses during the Special Session other than (i) Budget Bill(s) and revenue bills; (ii) single-house commanding and memorial resolutions; (iii) 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".

Irrespective of their own rule as set forth in House Joint Resolution 6001, the General Assembly passed a second rule without unanimous consent OR a super majority to add a sixth item of business – "(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".

While this suit does not address any such bills, etc. considered in the Special Session pertaining to item (vi), any such action, if taken, might well be in violation of the scope of business allowed in the 2024 Special Session.

The Special Session once again met and attempted to expand the scope of its business through a third procedural resolution, House Joint Resolution 6006, which added a seventh item, "(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," which IS the basis of this pending action.

The vote on this procedural resolution was passed strictly along party lines, in the House 50-42 and, 21-17 in the Senate. This vote was not by unanimous vote as required under House Joint Resolution 6001, and it did not pass by a two-thirds super majority that would have been required to demand a new Special Session to consider this business.

Certainly, both houses of the Commonwealth's legislature are required to follow their own rules and resolutions. Likewise, the legislators required to reach the two-thirds super majority in order to demand a Special Session under Article IV, Section 6, have the right to depend on the accompanying rule which limit the subject matter of the items they agree can be considered in the Special Session. Without this limitation, the majority can seek a Special Session agreeing to consider limited items in order to gain the votes necessary to invoke a Special Session, and thereafter by simple majority vote take up ANY ITEM without acquiescence of the two-thirds concurrence necessary to request the same. This blatant abuse of power by a majority IGNORES their own rules and resolutions thereby trampling ANY and ALL procedural rights of the minority.

Surely, the minority members of the Virginia House of Delegates and the Senate of Virginia are afforded the same civil rights of any citizen of the Commonwealth who enters into an agreement upon valid consideration, as here where they voted for a Special Session which contained a procedural rule limiting the business to come before it to five (5) specific items, unless the same was presented by unanimous vote of the house offering the proposed legislation.

Therefore, the Court FINDS that adding the House Joint Resolution 6007 (joint resolution proposing an amendment to the Constitution of Virginia related to the reapportionment or redistricting) violated House Joint Resolution 428 and House Joint Resolution 6001, and any

action taken thereon is an invalid expansion of the General Assembly's own call to the Governor for the 2024 Special Session, and the Court ORDERS that any such action is void, *ab initio*.

The third challenge to the proposed Constitutional Amendment, is that it is being submitted to the voters of the Commonwealth of Virginia, pursuant to Article XII, Section I of the Virginia Constitution, which states:

"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 and its first regular session held after the next general election of members of the House of Delegates."

The Plaintiffs contend that the vote on House Joint Resolution 6007 which occurred on October 31, 2025, some forty-three days after voting began in the 2025 General Election for the House of Delegates, wherein more than one million votes (approximately 40% of the 2025 Vote Totals) had already been cast. Plaintiffs content that the definition of "election" is the process of selecting a person to occupy an office." *Election, Black's Law Dictionary*.

The Attorney General opined that on January 17, 2026 that the Constitution defines the date of the General Election for the House of Delegates on "the Tuesday succeeding the first Monday in November."

While all concede that the enumerated date in Article IV, Section 3 of the Constitution is "Election Day," Defendants concede that voting began pursuant to Virginia law on September 19, 2025. Approximately one million Virginians had voted by the time the General Assembly passed House Joint Resolution 6007 regarding the proposed redistricting Constitutional Amendment. For this Court to find that the election was only on November 4, 2025, those one million Virginia voters would be completely disenfranchised. The Constitution REQUIRES an intervening election FOLLOWING the first passage of a proposed Constitutional Amendment. It is legal, acceptable and even encouraged for voters to take advantage of the earlier voting statute. There is no rational conclusion except that the ELECTION began on the first day of voting (September 19, 2025) and ended on November 4, 2025. Therefore, the Court FINDS that following the October 31, 2025 vote and passage of House Joint Resolution 6007 there HAS NOT BEEN an ensuing general election of the House of Delegates, and such ensuing general election CANNOT occur until 2027. Thus, the action of the General Assembly during its Regular Session 2026 CANNOT meet the

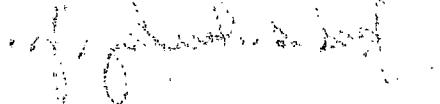
second passage required of Article XII, Section 1 of the Virginia Constitution, which second passage must occur before the same can be submitted to the voters of Virginia for adoption.

The fourth and final challenge by the Plaintiffs is that VA Code Section 30-13 was not satisfied since the Defendants concede that the proposed Constitutional Amendment was neither published by the Clerk of the House of Delegates, nor was it posted at the front door of every Courthouse, "not later than three months prior to the next ensuing general election of members of the House of Delegates."

Defendants woefully argued that the posting could occur three (3) months prior to the 2027 election and still comply with the statute even if the proposed Constitutional Amendment was voted on in the Spring of 2026. The sole purpose for the posting the proposed amendment at the front door of the Courthouse and having a copy in the Clerk's Office available for inspection is to provide the voters with notice and information PRIOR to the election of the House of Delegates members who would be elected to vote on the proposed Constitutional Amendment for the second vote as required under the Constitution. Since Article XII, Section 1 of the Virginia Constitution states that after the proposed amendment has been passed the second time, 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 [emphasis added] and not sooner than ninety days after final passage by the General Assembly.

VA Code Section 30-13 does exactly THAT. It prescribes how the vote can take place, and what steps must be taken prior to such vote. This statute has been amended four times SINCE the adoption of the 1971 overhaul of the Virginia Constitution. Therefore, the Court FINDS that the provisions of Section 30-13 of the Code of Virginia have not been complied with, and therefore all votes on the proposed Constitutional Amendment taken during the 2026 Regular Session of the General Assembly are ineffective as being a "SECOND" VOTE OF THE General Assembly under Article XII, Section 1 of the Constitution.

The Court having made the FINDINGS set forth above hereby RULES that the 2024 Special Session was a valid session up to and including all meetings until January 13, 2026. The Court further having FOUND that the General Assembly failed to follow its own Rules and Resolutions, DECLARES that any and all matters, motions, actions and votes regarding House Joint Resolution 6007 was in violation of the same as are ORDERED to be VOID AB INITIO.

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Likewise, even if said passage HAD been valid, that no "NEXT ENSUING GENERAL ELECTION OF THE MEMBERS OF THE HOUSE OF DELEGATES" has occurred whereby the Court ORDERS that any 2026 Regular Session vote on a proposed Constitutional Amendment SHALL BE and IS construed as a FIRST vote under Article XII, Section 1 of the Virginia Constitution.

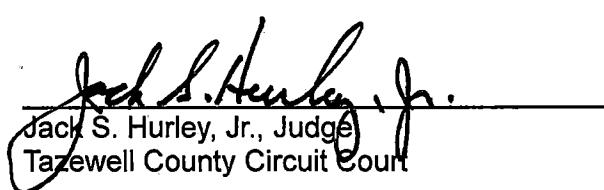
Lastly, even if the General Assembly is NOT required to follow its own Rules and Resolutions, and even if "election" is narrowly defined as "Election Day", the Court FINDS the General Assembly FAILED to comply with Section 30-13 of the Code of Virginia, which therefore PROHIBITS the proposed amendment from being submitted to the voters for their consideration. The Court hereby GRANTS a TEMPORARY and PERMANENT INJUNCTION, requiring the Clerk of the Circuit Court of Tazewell County to post the proposed Constitutional Amendment at least ninety (90) days BEFORE the next ensuing election of the members of the House of Delegates election.

The General Assembly has attempted or is attempting to repeal Section 30-13, which is fully within their power to do. However, under Article IV, Section 13 of the Constitution of Virginia, "All laws enacted at a regular session. . . shall take effect on the first day of July following the adjournment of the session of the General Assembly at which it has been enacted; . . . unless in the case of an emergency (which emergency shall be expressed in the body of the bill) the General Assembly shall specify an earlier date by a vote of four-fifths of the members voting in each house. . . ." Therefore, any attempt to repeal Section 30-13 which does not comply with this Constitutional mandate, is NULL and VOID. In the same way, the attempt within the House Joint Resolution to have this pending case transferred to the Circuit Court of the City of Richmond is in direct violation of Article IV, Section 14(2) of the Constitution of Virginia which states that: "The General Assembly shall not enact any local special, or private law in the following cases: (2) Providing for a change of venue in civil or criminal cases.

A copy of House Joint Resolutions and Virginia Codes and Constitutional provisions referred to herein are attached hereto.

The Clerk is directed to send attested copies to all attorneys of record.

Enter this 27th day of January, 2026.



Jack S. Hurley, Jr., Judge
Tazewell County Circuit Court